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REQUEST FOR QUALIFICATIONS FOR

PROGRAM FOR ARTERIAL SYSTEM SYNCHRONIZATION (PASS)

To: Interested Parties

The Metropolitan Transportation Commission (MTC) invites your firm to submit a Statement of Qualifications (SOQ) to provide technical assistance to local Bay Area agencies through the Program for Arterial System Synchronization (PASS). Selected Consultants will provide technical assistance to local Bay Area agencies to retune traffic signal systems along arterial corridors that: 1) function as reliever routes to nearby freeway(s); 2) serve transit lines with high ridership; and/or 3) are located within cities projected to experience substantial growth in housing and/or jobs. The PASS FY 2015/16 Cycle has a budget of up to \$1 million in federal funds, with local matching requirements to be satisfied by the local agencies.

This letter together with its appendices comprises the Request for Qualifications (RFQ) for this program. Any addenda to this RFQ that may be issued by MTC will be posted at <http://procurements.mtc.ca.gov>. It is the Proposer's responsibility to check for addenda to this RFQ and comply with new or revised requirements that may be stated therein.

MTC intends to enter into a one (1) year contract with three or more Consultants selected through this RFQ. At MTC's sole discretion, subject to the approval of future budgets, the contracts may be extended for up to one (1) year for the FY 2016/17 Cycle.

Statement of Qualifications Due Date

Interested firms must submit four (4) hard copies (one original and three copies) of their Statement of Qualifications (SOQs) by **4:00 P.M., Friday, May 15, 2015. SOQs received after that date and time will not be considered.** SOQs accepted before the deadline shall be considered firm offers to provide the services described in this RFQ for a period of one hundred twenty (120) days from the date of submittal. Submission of an electronic copy will not satisfy the requirement to submit hard copies of the SOQ by the submission deadline.

MTC Point of Contact

SOQs and all inquiries related to this RFQ should be submitted to the MTC Project Manager at the address shown below. For inquiries, please call 510.817.5616 or e-mail lzhang@mtc.ca.gov.

Lin Zhang, Project Manager
Metropolitan Transportation Commission
Joseph P. Bort MetroCenter
101 Eighth Street
Oakland CA 94607-4700

Scope of Work, Funding and Method of Payment

The Consultants selected to enter into contracts as a result of this RFQ will work under the direction of the MTC Project Manager or a designated representative as outlined in *Appendix A, Scope of Work, Schedule and Budget*. At its sole discretion, MTC will assign projects to Consultants at the beginning of each cycle. A typical PASS project consists of the following four stages: 1) scope of work, schedule and budget; 2) analysis of existing conditions; 3) recommendations; and 4) preliminary implementation, fine-tuning and evaluation.

It is critical for each project to collect and analyze accurate data and that the data is collected on days with typical traffic patterns, avoiding weeks with holidays, school breaks, construction activities, special events, adverse weather conditions, etc.

In general, the projects will be completed within one year from the project award date or as per the schedule approved by the MTC Project Manager. Consultant shall keep all project stakeholders updated on changes to the project schedule throughout the duration of the project. Project delays and schedule extensions shall be approved by the MTC Project Manager.

The budget for each project will vary from project-to-project depending on the number of signals, number of signal timing plans, additional services, remote or field implementation, and evaluation. For details regarding the calculation of project budgets and invoicing procedures, please refer to the budget section in *Appendix A, Scope of Work, Schedule and Budget*.

The resulting contracts will be funded in part with federal funds, including funds that may have California State Department of Transportation requirements. Federal and state requirements are included as contract provisions in *Appendix C* of Attachment H, Federally Required Clauses, and Attachment I, State Required Clauses. *Appendices D1, D2, D3, D4 and D5* also apply.

Addenda

Any addenda to this RFQ that may be issued by MTC will be posted at <http://procurements.mtc.ca.gov>; it is the proposer's responsibility to check for addenda to this RFQ and comply with new or revised requirements that may be stated therein.

Minimum Qualifications

To be eligible for SOQ evaluation, Consultant or the Consultant Team must meet the Minimum Qualifications (MQs) described in Section II of this RFQ.

Organizational Conflict of Interest

See Section VII.G of this RFQ for a discussion of conflict of interest.

Contents of SOQ

Each SOQ should include the information set forth in Section V, Form of Statement of Qualifications of this RFQ.

Evaluation

SOQs that meet the MQs and do not demonstrate any impermissible conflict of interest will be evaluated based on the evaluation factors set forth in Section VI.B.

MTC reserves the right to accept or reject any and all SOQs submitted, to waive minor irregularities in an SOQ, and to request additional information from the proposers. Any awards made will be to the firm(s) whose qualifications are best suited to the program and most advantageous to MTC, based on the evaluation factors in Section VI. MTC reserves the right to award a contract at the time the recommendation is approved.

Selection Timetable

2:00 P.M., Friday, May 1, 2015	Proposer's Conference in Fishbowl Conference Room, MTC, 101 8 th Street, Oakland, CA
4:00 P.M., Wednesday, May 6, 2015	Closing date and time for requests for clarifications/exceptions
No later than five (5) business days prior to the date SOQs are due	Closing date and time for objections to RFQ provisions
4:00 P.M., Friday, May 15, 2015	Closing date and time for receipt of Statements of Qualifications (SOQs)
Week of June 1, 2015*	Interviews, if necessary, at MTC, 101 8 th Street, Oakland, CA
Friday, July 10, 2015	MTC Operations Committee Approval

*MTC may change the selection timetable if necessary.

General Conditions

MTC will not reimburse any firm for costs related to preparing and submitting an SOQ.

Materials submitted by respondents and evaluated by MTC are subject to public inspection under the California Public Records Act (Government Code § 6250 *et seq.*) after the MTC Executive Director selects a firm for award.

MTC reserves the right to cancel this RFQ, accept or reject any and all submittals, negotiate with any or all firms submitting SOQs, waive minor irregularities in SOQs, and request any additional information from firms submitting SOQs. Any award made will be to the firm whose SOQ is the most advantageous to MTC, based on the evaluation criteria listed above.

A sample of MTC's standard consultant contract is enclosed for your reference as *Appendix C*. If a firm wishes to propose a change to any standard MTC contract provision, the provision and the proposed alternative language must be submitted by the deadline for requests for clarifications/exceptions to RFQ provisions as specified in the selection timetable above. If no such change is requested, the firm will be deemed to accept MTC's standard contract provisions based on its submission of an SOQ.

The selected firms will be required to maintain insurance coverage during the term of the contract at the levels described in *Appendix C-1*. By submitting an SOQ, a firm agrees to provide the required certificates of insurance providing verification of the minimum insurance requirements listed in *Appendix C-1*, Insurance Requirements within ten (10) days of MTC's notice to a firm that it is prepared to enter into a contract with the firm. Requests to change MTC's insurance requirements must be brought to MTC's attention no later the deadline for requests for clarifications/exceptions to RFQ provisions as specified in the selection timetable above. If such exceptions are not brought to MTC's attention by that deadline, compliance with the insurance requirements will be assumed.

Authority to Commit MTC

Based on an evaluation conducted by the selection panel, the Executive Director will make recommendations for selection of Consultants or Consultant Teams on the bench to the MTC Operations Committee, which will commit to the expenditure of funds in connection with this RFQ.

We appreciate your interest in this RFQ and look forward to receiving your SOQ.

Sincerely,

DocuSigned by:

Steve Heminger

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Steve Heminger,
Executive Director

SH:LZ

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REQUEST FOR QUALIFICATIONS

FOR

PROGRAM FOR ARTERIAL SYSTEM SYNCHRONIZATION (PASS)

TO

METROPOLITAN TRANSPORTATION COMMISSION

April 27, 2015

Joseph P. Bort MetroCenter
101 Eighth Street
Oakland, CA 94607-4700

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I. PURPOSE AND PROJECT DESCRIPTION

The purpose of the PASS is to provide technical assistance to Bay Area agencies to help improve the safe and efficient operation of certain traffic signal systems and corridors. MTC has allocated approximately \$1 million in federal funds for the PASS, with local matching requirements to be satisfied by the local agencies. Projects are defined by Bay Area agencies, evaluated by MTC, and assigned to consultants retained by MTC.

The role of MTC in the PASS is to provide streamlined program administration, project management, and facilitation of inter-agency communication and coordination. The PASS aims to provide high-quality technical assistance and project management in a cost-effective manner. MTC will administer and manage this Program, but the primary responsibility for the operation and retiming of traffic signals resides with the agency that owns them. The projects will not be implemented without the approval of the agencies that own, operate and/or maintain the project signals. MTC will work closely with the project sponsors and consultants to successfully complete the PASS projects.

Technical assistance under this regional program will focus on traffic signal systems that:

- Function as reliever routes to nearby freeway(s);
- Serve transit lines with high ridership; and/or
- Are located within cities projected to experience substantial growth in housing and/or jobs.

The PASS provides resources to local Bay Area agencies. The purpose of the PASS is as follows:

1. Retime signals on arterials of regional significance every three years to respond to changes in traffic patterns and volumes.
2. Establish and maintain communications between systems owned by Caltrans and local agencies. This could entail providing communication between traffic signals owned by different agencies.
3. Respond to changes to arterials resulting from road widening, reconfiguration of intersections, changes to freeway interchanges, implementation of ramp metering, or altering the lane configuration on arterials and freeways.
4. Retime traffic signal systems to support priority for transit vehicles. This would include active priority through signal preemption systems and passive priority through signal timing plans, and could include providing transit vehicles with rapid access/egress from major transit hubs and through transit corridors.
5. Retime traffic signal systems in conjunction with other established regional programs, such as Transit Performance Initiative, Integrated Corridor Management, Freeway Performance Initiative, Safe Routes to Schools, Safe Routes to Transit, Complete Streets, SMART corridors, etc.
6. Peer review assistance to agencies that do not have in-house traffic engineering staff or expertise.

The PASS sets to achieve a number of goals and objectives, as described below, and carries out a number of typical tasks to result in the desired outcomes.

Goal I: Improve air quality through decreased motor vehicle emissions and fuel consumption.

- a) Develop and implement signal coordination plans (a.m., p.m., and/or midday) that reduce travel time and delay.
- b) Develop and implement signal coordination plans that reduce starts and stops of vehicles and promote uniform travel speeds.
- c) Develop and implement transit signal priority plans to improve speed and reliability of transit through reducing the number of vehicles on arterials.

Goal II: Improve reliability and predictability of travel along arterials.

- a) Collect peak period turning movement counts at all study intersections, including pedestrian and bicycle counts, and seven-day 24-hour machine counts at strategic locations to determine periods of coordination.
- b) Develop specialized timing plans to address mobility issues during school start and end times, special events, construction projects, etc.
- c) Develop and implement flush plans for arterials that are used as diversion routes in the event of freeway incidents, in conjunction with other incident management initiatives.

Goal III: Improve the safety of motorists, pedestrians, and bicyclists.

- a) Collect pedestrian and bicyclist volume data at the same time the intersection turning-movement counts are collected.
- b) Develop and implement signal coordination plans that promote uniform travel speeds, possibly reducing rear-end collisions.
- c) Review existing pedestrian crossing times and bicycle timings at intersections to be coordinated, and update them to current California Manual of Uniform Traffic Control Devices (CA MUTCD) and/or federal standards.
- d) Review collision history for patterns that can be corrected through signal timing coordination and recommend any changes as necessary.

II. MINIMUM QUALIFICATIONS (MQs)

SOQs must demonstrate that the proposer meets the following minimum qualifications to be eligible for consideration:

1. Project Manager (PM) must have at least eight (8) years of overall project management experience performing work similar to that described in *Appendix A, Scope of Work, Schedule and Budget*.
2. Lead and technical staff must each have at least three (3) years of experience working on signal coordination projects.
3. PM and lead staff must be licensed engineers (Civil or Traffic) in California, and have experience working on multi-agency signal coordination projects.

III. PROPOSERS CONFERENCE, REQUESTS FOR EXCEPTIONS

A proposers' conference will be held at MTC, located at 101 8th Street, Oakland, CA on Friday, May 1, 2015, at 2:00 P.M. in Fishbowl Conference Room. Please sign in at the MTC Reception on the third floor. No advance registration is required.

Requests for clarification/questions and requests for exception or modification to provisions of the RFQ must be received by 4:00 P.M. on May 6, 2015 to guarantee consideration and a response.

IV. SCOPE OF WORK, SCHEDULE AND BUDGET

The Consultants selected to enter into contracts as a result of this RFQ will be expected to work under the direction of the MTC Project Manager or a designated representative as outlined in *Appendix A, Scope of Work, Schedule and Budget*. At its sole discretion, MTC will assign projects to Consultants at the beginning of each cycle. A typical PASS project consists of the following four stages: 1) scope of work, schedule and budget; 2) analysis of existing conditions; 3) recommendations; and 4) preliminary implementation, fine-tuning and evaluation.

It is critical for each project to collect and analyze accurate data and that the data is collected on days with typical traffic patterns, avoiding weeks with holidays, school breaks, construction activities, special events, adverse weather conditions, etc.

In general, the projects will be completed within one year from the project award date or as per the schedule approved by the MTC Project Manager. Consultant shall keep all project stakeholders updated on changes to the project schedule throughout the duration of the project. Project delays and schedule extensions shall be approved by the MTC Project Manager.

The estimated budget for the contracts resulting from this RFQ have not been determined, and each project budget will vary from project-to-project depending on the number of signals, number of signal timing plans, additional services, remote or field implementation, and evaluation. For details regarding the calculation of project budgets and invoicing procedures, please refer to the budget section in *Appendix A, Scope of Work, Schedule and Budget*.

The resulting contracts will be funded in part with federal funds, including funds that may have California State Department of Transportation requirements. Federal and state requirements are included as contract provisions in *Appendix C* of Attachment H, Federally Required Clauses, and Attachment I, State Required Clauses. *Appendices D1, D2, D3, D4 and D5* also apply.

V. FORM OF STATEMENT OF QUALIFICATIONS

Sections that should be included in each SOQ are described below. Page limits, where specified, are for each side of print. Proposers are encouraged to print double-sided copies to save paper. Fonts shall not be less than size 11.

A. Transmittal Letter

A transmittal letter signed by a partner or officer of the firm authorized to solicit business and enter into contracts for the firm indicating your firm's interest to be considered for this RFQ. The transmittal letter should include the name and telephone number of a primary contact person, if different from the authorizing official. The letter should also indicate whether there are any conflicts of interest that would limit the Proposer's ability to provide the services requested in this RFQ. The letter should indicate that the SOQ is a firm offer to enter into a contract to perform work related to this RFQ for a period of one hundred twenty (120) days from the SOQ submission date. (Not to exceed 1 page.)

B. Title Page

Title page showing the RFQ subject, the name of the proposer's firm, address, telephone number, fax, name of contact person and email, and the date. (Not to exceed 1 page.)

C. Firm Qualifications and Experience

- Provide a brief summary describing the Firm's qualifications and experience relevant to the work described in *Appendix A, Scope of Work, Schedule and Budget*. The company profile should include the firm size and number of local and out-of-region (listed separately) qualified engineers in the firm who would be available to work on the PASS projects. Please list all the company addresses where the project work will be performed and/or coordinated. (Not to exceed 4 pages.)
- Consultant's organizational structure identifying Principal-In-Charge (PIC)/Quality Controller (if applicable), Project Manager (PM) and Lead Staff. (Not to exceed 1 page.)

D. Staff Qualification and Experience

- Provide a brief summary of the qualifications and experience of the project team with emphasis on the proposed PM, Lead Staff and Technical Support Staff. (Not to exceed 4 pages.)
- Provide a table/chart showing each team member, their assigned role, for the PASS and their applicable skills and/or areas of expertise. (Not to exceed 1 page.)
- Staff resumes highlighting their experience and skills relevant to the services requested in this RFQ. (Not to exceed 1 page for each resume.)

E. Similar Projects

Provide a brief summary of at least two (2) similar projects completed by the PM and the lead staff within the last five (5) years. Project summaries must include details on the project client, services, schedule, budget, challenges, project status, and contact information of the client manager who may be contacted as a reference. (Not to exceed 4 pages.)

F. References

Provide three (3) references, along with contact information, attesting to the proposed PM's previous experience in performing work substantially similar or related to the services proposed. At its discretion, the MTC may contact these references at any time during the SOQ evaluation process. Alternatively, reference letters can be provided. (Not to exceed 1 page)

G. Approach to Signal Timing Challenges

Explain the Firm's approach to signal timing with respect to technical and institutional challenges in the Bay Area, including some of the additional services listed in Section 5 of the *Appendix A, Scope of Work, Schedule and Budget*. (Not to exceed 1 page.)

H. Price Proposal

A **SEPARATE, SEALED ENVELOPE** including the Firm's fully loaded hourly rates for all staff proposed to work on the PASS, including a description of any charges that would be passed on to MTC. If the rates are subject to change, indicate when rates are due to change, the basis for change, and approximately how much they can be expected to change each year. If the rates are not subject to change, please include a statement confirming that the rates are valid for the duration of the contract, including all contract extensions.

I. Conflict of Interest

By submitting an SOQ, the Proposers represent and warrant that no Commissioner, officer or employee of MTC is in any manner interested directly or indirectly in the SOQ or in the contract that may result from this RFQ or in any profits expected to arise therefrom, as set forth in California Government Code Section 1090. Proposers further warrant and represent that they presently have no interest and agree that they will not acquire any interest, that would present a conflict of interest under California Government Code Sections 1090 *et seq.* or 87100 *et seq.* during the performance of services under any contract resulting from this RFQ and that they will not knowingly employ any person having such an interest. Violation of this provision may result in the contract being deemed void and unenforceable.

J. Forms and Certificates

1. A signed California Levine Act statement (*Appendix B*)
2. A signed Insurance Provisions document (*Appendix C-1*).
3. A signed Certification Regarding Debarment, Suspension, and Other Responsibility Matters (*Appendix D-1*);
4. A signed Certification of Restriction on Lobbying (*Appendix D-2*)
5. A signed Exhibit 10-K Certification of Financial Management System and Contract Costs (*Appendix D-3*)
6. Signed federally required forms regarding DBE participation (*Appendix D-4, Exhibit 10-01: Local Agency Consultant DBE Commitment, and Appendix D-5, Exhibit 10-02: Local Agency Consultant DBE Information*)

VI. EVALUATION**A. Review for Satisfaction of Minimum Qualifications and Responsiveness**

The MTC Project Manager, in consultation with the MTC Office of General Counsel, will conduct an initial review of the SOQs for responsiveness to ensure that each SOQ meets the minimum qualifications set out in *Section II, Minimum Qualifications (MQs)*. Proposers failing to meet the MQs will not be considered. Also, any SOQ that does not include enough information to permit the evaluators to rate the SOQ in any one of the evaluation factors listed below will be considered non-responsive and will not be evaluated. An SOQ that fails to include

one or more items requested in *Section V, Form of Statement of Qualifications*, may be considered responsive, if evaluation in every criterion is possible.

MTC reserves the right to request additional information from responsive proposers prior to evaluation.

B. Evaluation

Responsive SOQs meeting the MQs will be evaluated by a panel of staff representatives from MTC and Caltrans based on the following evaluation criteria, all relatively equal in importance.

1. Firm's depth of resources and availability of qualified staff assigned to PASS. Their availability in the Bay Area, experience working on multiple projects involving multiple agencies at the same time, and the Firm and/or PM's past performance on similar projects with MTC and Caltrans, if applicable.
2. PM and lead staff's knowledge and expertise in the following: traffic signal optimization and coordination; various signal coordination software; computer models and calibration; signal controllers and software; signal communications; data collection and quality verification; and collision analysis.
3. PM and lead staff's experience working with local Bay Area agencies on similar projects.
4. PM and lead staff's specialized expertise and experience in transit signal priority, incident management initiatives, SMART corridors, and the Additional Services listed in *Appendix A, Scope of Work, Schedule, and Budget*. Their demonstrated ability in accommodating the needs of users of various modes (e.g., pedestrians, bicycles, automobiles, and transit and emergency vehicles).
5. Communication skills and written presentation, including the ability to write and present both qualitative and quantitative information in a clear and concise manner, as demonstrated by the SOQ. Oral communication skills of the proposed PM and the lead staff will be evaluated if interviews are held.

Following the evaluation, the panel may elect to recommend a list of firms or may develop a "short list" of firms for interviews. Oral interviews may be held with short-listed firms, and their references will be contacted, at MTC's discretion. MTC reserves the right not to convene interviews, but to make a selection on the basis of written SOQs alone. Further, MTC reserves the right to accept or reject any and all submitted SOQs, to waive minor irregularities, and to request additional information from the responsive firms at any stage of the evaluation.

During this phase of the process, any potential conflicts of interest (see *Section VII, G Organizational Conflict of Interest*) will be considered. MTC may request additional information from any Proposer that appears to have an organizational conflict of interest, including a plan to mitigate any such conflicts. MTC reserves the right not to award a contract to a Proposer that appears to have a conflict of interest, actual or apparent, that cannot be adequately mitigated, in MTC's opinion.

C. Recommendation for Award

The recommendations of the evaluation panel will be reviewed by the MTC Executive Director, and then forwarded to the MTC Operations Committee. If the Committee approves these recommendations, the MTC Project Manager will start to negotiate contracts with any or all of the approved firms. Hourly rates will not be a factor in the evaluation process. However, MTC reserves the right, after the firms have been selected, to decline to enter into a contract with a firm whose rates are unreasonable in MTC's sole discretion, and/or to negotiate with other approved firms.

VII. GENERAL CONDITIONS

A. Limitations

This RFQ does not commit MTC to award a contract or to pay any costs incurred in the preparation of a SOQ in response to this RFQ. MTC will not reimburse any firm for costs related to preparing and submitting an SOQ.

B. Award

Any award of contracts to eligible Consultants will be to the Consultants whose SOQs are most advantageous to MTC based on the evaluation criteria outlined in Section VI.B and the needs of the various projects. The contract between MTC and each Consultant will not commit MTC to awarding any particular project or number of projects to the selected consultants. The contracts with the selected Consultants will include the federally required third party contract provisions described in *Appendix D1, D2, D3, D4 and D5*.

C. Binding Offer

A signed SOQ submitted to MTC in response to this RFQ shall constitute a binding offer from proposing firms to contract with MTC for a period of one hundred twenty (120) days after its date of submission, which shall be the date SOQs are due to MTC.

D. Contract Arrangements

MTC's Standard Consultant Agreement is enclosed for your reference as *Appendix C*. If a firm wishes to propose a change to any standard MTC contract provision, the provision and the proposed alternative language must be submitted by the deadline specified in this RFQ for requests for clarifications/exceptions. If no such change is requested, the firm will be deemed to accept MTC's standard contract provisions based on its submission of an SOQ.

The selected Consultants* will be required to maintain insurance coverage, during the term of the contract, at the levels described in *Appendix C-1, Insurance Requirements*. By submitting an SOQ, a Firm agrees to provide the required certificates of insurance providing verification of the minimum insurance requirements listed in *Appendix C-1, Insurance Requirements* within ten (10) days of MTC's notice to a firm that it has been selected for the PASS. Requests to change MTC's insurance requirements must be brought to MTC's attention no later than the deadline for

requests for clarifications/exceptions to RFQ provisions. If such objections are not brought to MTC's attention by that deadline, compliance with the insurance requirements will be assumed.

*Please see *Appendix C, Standard Consultant Agreement* for the insurance relationship between a Consultant and its subconsultants, subcontractors, suppliers, temporary workers, independent contractors, leased employees, or any other persons, firms or corporations that Consultant authorizes to work under an agreement resulting from this RFQ.

The resulting contracts will be funded in part with federal funds, including funds that may have California State Department of Transportation requirements. Federal and state requirements are included as contract provisions in *Appendix C* of Attachment H, Federally Required Clauses, and Attachment I, State Required Clauses. *Appendices D-1, D-2, D-3, D-4, and D-5* also apply.

E. Selection Disputes

A firm may object to a provision of the RFQ on the grounds that it is arbitrary, biased, or unduly restrictive, or to the selection of a particular Consultant on the grounds that MTC procedures, the provisions of the RFQ or applicable provisions of federal, state or local law have been violated or inaccurately or inappropriately applied by submitting to the MTC Project Manager a written explanation of the basis for the protest:

1. No later than five (5) business days prior to the date SOQs are due, for objections to RFQ provisions; or
2. No later than three (3) working days after the date the firm/team is notified that it did not meet the minimum qualifications or was found to be non-responsive; or
3. No later than three (3) working days after the date the firm is notified that it was not selected or recommended for award, for objections to consultant selection or contract award.

Except with regard to initial determinations of non-responsiveness, the evaluation record shall remain confidential until the MTC Operations Committee authorizes selection and/or award.

Protests of recommended selections or award must clearly and specifically describe the basis for the protest in sufficient detail for the MTC review officer to recommend a resolution to the Executive Director.

The Executive Director will respond to the protest in writing, based on the recommendation of the MTC review officer. Should a firm wish to appeal the decision of the MTC Executive Director, it may file a written appeal with the MTC Operations Committee, no later than three (3) working days after receipt of the written response from the MTC Executive Director. The MTC Operations Committee's decision will be the final agency decision.

Authorization to select a particular Consultant to award a contract by the MTC Operations Committee shall be deemed conditional until the expiration of the protest period or, if a protest is filed, the issuance of a written response to the protest by the MTC Executive Director or, if the decision of the MTC Executive Director is appealed, the issuance of the MTC Operations Committee's decision.

F. Public Records

This RFQ and any material submitted by a Proposer in response to this RFQ are subject to public inspection under the California Public Records Act (Government Code § 6250 *et seq.*), unless exempt by law. SOQs will remain confidential until the MTC Executive Director has authorized award. Other than proprietary information or other information exempt from disclosure by law, the content of the SOQ submitted to MTC will be made available for inspection consistent with its policy regarding Public Records Act requests.

If the Proposer believes any communication contains trade secrets or other proprietary information that the Proposer believes would cause substantial injury to the Proposer's competitive position if disclosed, the Proposer shall require that MTC withhold from disclosure such proprietary materials by marking each page containing propriety information as confidential and shall include the following notice at the front of its SOQ:

“The data on the following pages of this SOQ, marked along the right margin with a vertical line, contain technical or financial information which are trade secrets and/or which, if disclosed, would cause substantial injury to the Proposer's competitive position. The Proposer requests that such data be used for review by MTC only, but understands that exemption from disclosure will be limited by MTC's obligations under the California Public Records Act. If a contract is awarded to the Proposer submitting this SOQ, MTC shall have the right to use or disclose the data to the extent it is incorporated into the contract, unless otherwise provided by law. [List pages]”

Failure to include this notice with relevant page numbers shall render any “confidential/proprietary” markings inadequate. Individual pages shall accordingly not be treated confidentially. **Any language purporting to render the entire SOQ confidential or proprietary will be regarded as ineffective and will be disregarded. In addition, the Proposer may not designate any required SOQ Forms or the cost proposal as confidential.**

In the event properly marked data is requested pursuant to the California Public Records Act, the Proposer will be advised of the request and given the opportunity to provide to MTC a detailed statement indicating the reasons it believes the information should be withheld from discussion. MTC complies with the Proposer's request, the Proposer shall assume all responsibility for any challenges resulting from the non-disclosure; indemnify and defend MTC and hold it harmless from and against all damages (including but not limited to attorneys' fees that may be awarded to the party requesting such Proposer information) and pay any and all costs and expenses relating to the withholding of the Proposer information.

If the Proposer does not request that MTC withhold information marked as confidential and requested under the California Public Records Act, MTC shall have no obligation to withhold the information from disclosure, and the Proposer shall not have a right to make a claim or maintain any legal action against MTC or its Commissioners, officers, employees, or agents in connection with such disclosure.

G. Organizational Conflicts Of Interest

Whenever MTC is awarding a contract that involves the rendering of advice, it will consider whether there exists the potential for bias, because of other activities, relationships or contracts of the Proposer, and if so, whether any potential bias can be mitigated acceptably by MTC and the Proposer. After award, the Consultant shall take all reasonable measures to preclude the existence or development of an organizational conflict of interest in connection with work performed under the resulting agreement. An organizational conflict of interest occurs when, due to other activities, relationships, or contracts, a firm or person is unable, or potentially unable, to render impartial assistance or advice to MTC; a firm or person's objectivity in performing the contract work is or might be impaired; or a firm or person has an unfair competitive advantage in proposing for award of a contract as a result of information gained in performance of this or some other Project.

Proposer shall not engage the services of any subcontractor or independent contractor on any work related to this RFQ if the subcontractor or independent contractor, or any employee of the subcontractor or independent contractor, has an actual or apparent organizational conflict of interest related to work or services contemplated under this RFQ.

H. Pre-Award Audit

Federally funded contracts in excess of one million dollars (\$1,000,000) require a pre-award audit. The pre-award audit examines the Consultant's accounting, estimating, administrative systems, proposed costs, financial condition, and the proposed contract language.

I. Disadvantaged Business Enterprise (DBE) Policy

Federal funding will be utilized for a portion of the contracts resulting from this RFQ. Therefore, the following requirements apply.

Effective July, 2012, the California Department of Transportation (Caltrans) requires recipients of DOT grant funds through Caltrans to impose the following DBE utilization requirements on its consultants and contractors. Consultant's DBE participation on this Agreement will assist Caltrans in meeting its federally mandated statewide overall DBE goal.

MTC has established Disadvantaged Business Enterprise (DBE) goal of 3% for contract entered into as a result of this RFQ.

1. TERMS AS USED IN THIS DOCUMENT

- The term "Disadvantaged Business Enterprise" or "DBE" means a for-profit small business concern owned and controlled by a socially and economically disadvantaged person(s) as defined in Title 49, Part 26.5, Code of Federal Regulations (CFR).
- The term "Agreement" also means "Contract."
- Agency also means the local entity entering into this contract with the Contractor or Consultant.
- The term "Small Business" or "SB" is as defined in 49 CFR 26.65.

2. AUTHORITY AND RESPONSIBILITY

- A. DBEs and other small businesses are strongly encouraged to participate in the performance of Agreements financed in whole or in part with federal funds (See 49 CFR 26, “Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs”). The Contractor should ensure that DBEs and other small businesses have the opportunity to participate in the performance of the work that is the subject of this solicitation and should take all necessary and reasonable steps for this assurance. The proposer shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of subcontracts.
- B. Proposers are encouraged to use services offered by financial institutions owned and controlled by DBEs.

3. SUBMISSION OF DBE INFORMATION

If there is a DBE goal on the contract, a “Local Agency Proposer DBE Commitment (Consultant Contract)” (Exhibit 10-O1) form shall be included in the procurement document. In order for a proposer to be considered responsible and responsive, the proposer must make good faith efforts to meet the goal established for the contract. If the goal is not met, the proposer must document adequate good faith efforts. All DBE participation will be counted towards the contract goal, and all DBE participation shall be collected and reported. A “Local Agency Proposer DBE Information (Consultant Contract)” (Exhibit 10-O2) form shall be included with the procurement document. The purpose of the form is to collect data required under 49 CFR 26. This form collects all DBE participation. Even if no DBE participation will be reported, the successful proposer must execute and return the form.

4. DBE PARTICIPATION GENERAL INFORMATION

It is the proposer’s responsibility to be fully informed regarding the requirements of 49 CFR, Part 26, and the Department’s DBE program developed pursuant to the regulations. Particular attention is directed to the following:

- A. A DBE must be a small business firm defined pursuant to 13 CFR 121 and be certified through the California Unified Certification Program (CUCP).
- B. A certified DBE may participate as a prime contractor, subcontractor, joint venture partner, as a vendor of material or supplies, or as a trucking company.
- C. A DBE proposer not proposing as a joint venture with a non-DBE, will be required to document one or a combination of the following:
 - 1. The proposer is a DBE and will meet the goal by performing work with its own forces.
 - 2. The proposer will meet the goal through work performed by DBE subcontractors, suppliers or trucking companies.
 - 3. The proposer, prior to proposing, made adequate good faith efforts to meet the goal.

- D. A DBE joint venture partner must be responsible for specific contract items of work or clearly defined portions thereof. Responsibility means actually performing, managing, and supervising the work with its own forces. The DBE joint venture partner must share in the capital contribution, control, management, risks and profits of the joint venture commensurate with its ownership interest.
- E. A DBE must perform a commercially useful function pursuant to 49 CFR 26.55, that is, a DBE firm must be responsible for the execution of a distinct element of the work and must carry out its responsibility by actually performing, managing and supervising the work.
- F. The proposer shall list only one subcontractor for each portion of work as defined in their proposal and all DBE subcontractors should be listed in the bid/cost proposal list of subcontractors.
- G. A prime contractor who is a certified DBE is eligible to claim all of the work in the Agreement toward the DBE participation except that portion of the work to be performed by non-DBE subcontractors.

5. RESOURCES

- A. The CUCP database includes the certified DBEs from all certifying agencies participating in the CUCP. If you believe a firm is certified that cannot be located on the database, please contact the Caltrans Office of Certification toll free number 1-866-810-6346 for assistance.
- B. Access the CUCP database from the Department of Transportation, Civil Rights, Business Enterprise Program web site at: <http://www.dot.ca.gov/hq/bep/>.
 - Click on the link in the left menu titled Disadvantaged Business Enterprise
 - Click on Search for a DBE Firm link
 - Click on Access the DBE Query Form located on the first line in the center of the page
 - Searches can be performed by one or more criteria
 - Follow instructions on the screen
- C. How to Obtain a List of Certified DBEs without Internet Access:
DBE Directory - If you do not have Internet access, Caltrans also publishes a directory of certified DBE firms extracted from the online database. A copy of the directory of certified DBEs may be ordered from the Caltrans Publications Unit at (916) 263-0822, 1900 Royal Oaks Drive, Sacramento, CA 95815-3800.

6. MATERIALS OR SUPPLIES PURCHASED FROM DBES COUNT TOWARDS THE DBE GOAL UNDER THE FOLLOWING CONDITIONS:

- A. If the materials or supplies are obtained from a DBE manufacturer, count 100 percent of the cost of the materials or supplies. A DBE manufacturer is a firm that operates or maintains a factory, or establishment that produces on the premises the materials,

supplies, articles, or equipment required under the Agreement and of the general character described by the specifications.

- B. If the materials or supplies purchased from a DBE regular dealer, count 60 percent of the cost of the materials or supplies. A DBE regular dealer is a firm that owns, operates or maintains a store, warehouse, or other establishment in which the materials, supplies, articles or equipment of the general character described by the specifications and required under the Agreement are bought, kept in stock, and regularly sold or leased to the public in the usual course of business. To be a DBE regular dealer, the firm must be an established, regular business that engages, as its principal business and under its own name, in the purchase and sale or lease of the products in question. A person may be a DBE regular dealer in such bulk items as petroleum products, steel, cement, gravel, stone or asphalt without owning, operating or maintaining a place of business provided in this section.
- C. If the person both owns and operates distribution equipment for the products, any supplementing of regular dealers' own distribution equipment shall be, by a long-term lease agreement and not an ad hoc or Agreement-by-Agreement basis. Packagers, brokers, manufacturers' representatives, or other persons who arrange or expedite transactions are not DBE regular dealers within the meaning of this section.
- D. Materials or supplies purchased from a DBE, which is neither a manufacturer nor a regular dealer, will be limited to the entire amount of fees or commissions charged for assistance in the procurement of the materials and supplies, or fees or transportation charges for the delivery of materials or supplies required on the job site, provided the fees are reasonable and not excessive as compared with fees charged for similar services.

APPENDIX A, SCOPE OF WORK, SCHEDULE AND BUDGET**A. SCOPE OF WORK**

The services to be performed by Consultant shall consist of services requested by the MTC Project Manager or a designated representative. At the beginning of each annual project cycle, all selected Consultant shall meet with the MTC Project Manager to discuss various aspects of the PASS, such as program guidelines, logistics, services, invoices, communication preferences, etc. Caltrans staff will also participate in this meeting to discuss their signal timing preferences, if applicable. The electronic files of all project deliverables shall be clearly named and dated. The project administration guidelines applicable to the particular Cycle of PASS projects shall be reviewed and discussed at this meeting. The standard scope of work, schedule and budget for a typical PASS project includes, but is not limited to, the following:

1. Project Kick-off

- 1.1. Consultant shall coordinate a kick-off meeting with the project sponsors, and MTC Project Manager or designated representative. This meeting will help to understand the roles and responsibilities of each stakeholder; establish communication channels; discuss the deliverable review preferences for each stakeholder; discuss in detail the scope of work, schedule, and budget; understand the needs and requirements of all stakeholders; gather available data and information; and obtain a thorough understanding of the goals of the project.
- 1.2. Consultant shall have the opportunity to discuss with the project sponsors and other stakeholders their preferences for signal timing, cycle length preferences, status of corridor equipment, anticipated construction activities, any helpful “do’s and don’ts, and other project related information.
- 1.3. Consultant shall prepare the *Deliverable 1A: Draft Scope of Work, Schedule and Budget report* for review by the project sponsors and the MTC Project Manager. This report shall include all the details discussed in the kick-off meeting. Consultant shall address all of the comments received and submit a revised report to the MTC Project Manager for final approval. The approved version will be considered the *Deliverable 1B: Final Scope of Work, Schedule, and Budget (SSB)* for the project.
- 1.4. Consultant shall revise the SSB if any significant changes are required or requested in the approved version during any stage of the project. The revised version shall include the nature and details on all of the changes with a revised date and title. Consultant may also be asked to perform any additional services described in detail in Task 5: *Additional Services* at any stage of the project.

Deliverable 1A:	Draft Scope of Work, Schedule, and Budget
Deliverable 1B:	Final Scope of Work, Schedule, and Budget (SSB)

2. Analysis of Existing Conditions

Consultant shall collect and analyze all the data necessary to thoroughly understand existing traffic conditions in the project corridors. This stage of the project includes data collection and analysis, thorough field observations, input from signal maintenance staff, contractors, vendors, etc. regarding any pertinent issues in the project corridors. The purpose of this task is to help the project sponsors and other stakeholders understand the current traffic conditions in the project corridors, such as traffic patterns, volumes, peak hours, bottlenecks, collision history, hot spots, etc.

2.1. Data Collection and field reviews – Consultant shall collect all the data as listed in Deliverable 1B: Final Scope of Work, Schedule and Budget (SSB).

- 2.1.1. Consultant shall collect existing timing sheets, coordination plans, traffic signal as-built drawings, aerial photos and maps, corridor and intersection collision data for three years, Synchro and other computer models and data, if available, from the project sponsors and other stakeholders.
- 2.1.2. Consultant shall conduct peak period turning movement counts at all study intersections, including pedestrian and bicycle counts, and seven-day 24-hour machine counts (ADT Counts) with vehicle classifications at strategic locations to determine periods of coordination. All counts shall be taken during times and days that are representative of the times and days for which coordination plans shall be developed. No counts shall be taken during the weeks with holidays or school breaks, or on the days where the typical traffic patterns are impacted by construction activity, major incidents, adverse weather conditions, etc.
- 2.1.3. Consultant shall collect turning movement counts along with bicycle and pedestrian counts, using video data collection technologies. MTC prefers this method, as the videos help to review any data collection errors, if needed. Consultant shall provide access to the raw counts, videos, formatted data, via an FTP site or other web-portals approved by all of the stakeholders. Other data collection methods shall be considered based on the preference of the project sponsor or if video data collection is not feasible. Consultant shall take all the steps possible to provide the data to the project sponsors in any or all formats, such as PDF, MS Excel and/or Synchro computer models.
- 2.1.4. Consultant or their authorized subcontractors' costs for collecting the turning movement counts, with bicycle and pedestrian counts at all project intersections, is included in the project budget per intersection. The ADT or the seven-day 24-hour machine counts are included in the project costs, at the rate of one ADT count for every four project signals. Any additional counts have to be approved by MTC, and billed at a negotiated rate.
- 2.1.5. Consultant shall provide the MTC Project Manager electronic files of all turning movement counts, bicycle and pedestrian counts, ADT counts, collision data, all

developed Synchro models, controller and cabinet photos, and any other project related data when requested or at the end of the project, whichever is earliest.

- 2.1.6. Consultant shall conduct thorough field reviews at all study intersections and street segments to verify lane geometry, speed limits, storage lengths, signal phasing, distances between intersections, and crosswalk lengths, even if the information is available through other sources, such as aerial photos and speed surveys. Consultant shall conduct extensive field reviews at key intersections to measure queue lengths and saturation flows for heavy movements with input from project sponsors.
 - 2.1.7. Consultant shall conduct the “before” travel time data, including the number of stops, during times and days that are representative of the times and days for which coordination plans shall be developed. Consultant shall conduct as many runs as possible within the coordination period, but at least a minimum of four runs shall be conducted for each direction for each peak period. Consultant shall conduct these studies using the floating car method or any method approved by the project sponsors.
 - 2.1.8. Consultant shall verify signal coordination and transit priority capabilities of existing equipment and communications infrastructure. Consultant shall take digital photos of the controller cabinet and the contents of the controller cabinet, at all project locations, unless waived by the project sponsors or MTC.
- 2.2. Analysis of Existing Conditions – Consultant shall analyze the data obtained from Task 2.1 as follows:
- 2.2.1. Consultant shall review initial and actuated settings for each study intersection to identify opportunities to minimize delay during non-coordination periods and enhance pedestrian and bicyclist safety. The analysis shall include, but not be limited to, review of minimum and maximum green settings; yellow and red times; pedestrian timing; and gap, extension, and reduction settings.
 - 2.2.2. Consultant shall analyze the intersection and corridor-wide collision data for at least three years of available data. This data shall be summarized and evaluated to identify any signal timing practices that may help reduce similar potential incidents in the future.
 - 2.2.3. Consultant shall analyze the typical traffic patterns during the peak periods for which coordination plans shall be developed. Consultant shall note factors that generally affect signal progression including, but not limited to: intersections with high pedestrian or bicyclist volumes; over-saturated intersections; uneven lane distribution; high volumes of trucks and buses; and presence and location of bus stops.
 - 2.2.4. Consultant shall develop models for each peak period project corridors and calibrate the model based on travel time and delay studies, and field observations of queue lengths and saturation flows for heavy movements at key intersections.

Consultant shall use the modeling software as per directions from the project sponsors.

- 2.2.5. Consultant shall summarize the results of the existing conditions analyses in *Deliverable 2A: Draft Existing Conditions Report* for review by the project sponsors and MTC Project Manager. At a minimum, the report shall include the following: project description; project map showing the intersections and services; analysis from the counts; field verification results of the controllers and their communication capabilities; factors that are expected to affect progression; and model calibration results.
- 2.2.6. Consultant shall meet with the project sponsors to discuss the results of the existing conditions analyses and field observations. Consultant shall revise the report after addressing the comments received from the project sponsors. Consultant shall submit a *Response to Comments Report* addressing all the comments/concerns received from all stakeholders, while submitting the *Deliverable 2B: Final Existing Conditions Report* for approval.

Deliverable 2A:	Draft Existing Conditions Report
Deliverable 2B:	Final Existing Conditions Report, including the Response to Comments Report

3. Development of Recommendations

This stage of the project involves the following tasks and deliverables:

- 3.1. Consultant shall develop the optimal time-of-day coordination plans after analyzing the signal grouping; phasing and phase sequence, including conditional service; cycle lengths, splits, offsets; collision diagrams/data and other available data. The Consultant shall meet with the project sponsors or submit an interim deliverable to discuss and agree on the preliminary signal grouping and cycle lengths.
- 3.2. Consultant shall develop recommendations of optimal initial and actuated settings; time-of-day coordination plans and hours of coordinated operation; and transit signal priority plans and hours of operation, if applicable.
- 3.3. Consultant shall summarize recommendations in the *Deliverable 3A: Draft Recommendations Report*. The report shall also include a comparison of existing and proposed timings, the justifications for the recommended changes, and a description of the expected improvements.
- 3.4. Consultant shall follow the applicable state and federal standards in making these recommendations. Any exceptions need to be discussed in detail with the project sponsors and the MTC Project Manager.

- 3.5. Consultant shall meet with the project sponsors to discuss the proposed recommendations, justifications and anticipated improvements. Consultant shall revise the report after addressing the comments received from the project sponsors. Consultant shall submit a *Response to Comments Report* addressing all the comments/concerns received from all stakeholders, while submitting the *Deliverable 3B: Revised Recommendations Report* for approval.

Deliverable 3A:	Draft Recommendations Report
Deliverable 3B:	Revised Recommendations Report, including the Response to Comments Report

4. Implementation and Evaluation

This is the final stage of the project requiring the coordination of all project sponsors and MTC. The various tasks involved in this stage include, but are not limited to, the following:

- 4.1. Consultant shall prepare the appropriate timing sheets in the format requested by the project sponsors for review and approval. Consultant shall revise the timing sheets based on comments received from the project sponsors.
- 4.2. Consultant, with the help of project sponsors, shall implement the new timing plans remotely or in the field. Consultant shall use all the resources required to complete this task effectively, and any short-comings may impact the Consultant performance during the review process. Consultant shall employ enough staff resources to monitor the traffic for the entire duration the new plans are implemented for the first time. This requirement shall be followed any time changes are made to the timing plans during the fine-tuning process. Consultant shall have qualified staff available to immediately address any issues or agency concerns that may result from the implementation of the new timing plans.
- 4.3. Consultant, with the help of project sponsors, shall fine-tune the new timing plans to the satisfaction of the project sponsors. Consultant shall fine-tune timings in the field and record all changes. Fine-tuning shall be conducted during times and days that are representative of the times and days for which coordination plans were developed. This requires additional field visits to verify and assess any changes made during the fine-tuning process.
- 4.4. Consultant shall conduct the “after” travel time and delay studies, including the number of stops, during the new coordination periods. Consultant shall conduct as many runs as possible within the coordination period, but at least a minimum of four runs shall be conducted for each direction for each peak period. Consultant shall conduct these studies using the floating car method or any method approved by the project sponsors.
- 4.5. Consultant shall calculate measures of effectiveness using the results from the “before” and “after” studies. These measures generally include the travel-time savings, emissions savings, speed increases, reduction in the number of stops, cost savings from reduced emissions and benefit-cost analysis results. The methodology used for these calculations shall be provided or approved by the MTC Project Manager.

- 4.6. Consultant shall submit a *Deliverable 4A: Draft Project Report*, which shall include the following for each PASS project: overview, goals and objectives, corridors and services, project map, results from the data collection and analyses, the preliminary recommendations, new timings implementation, fine-tuning results, comparison of the old and new timings, etc. The report will also include any unique issues that were resolved and any qualitative benefits achieved with the project. The qualitative benefits will generally include the benefits to pedestrians, benefits to bicyclists, effects on transit, traffic safety, etc.
- 4.7. Consultant shall revise the report after addressing the comments received from the project sponsors and the MTC Project Manager. Consultant shall submit a *Response to Comments Report* addressing all the comments/concerns received from all stakeholders, while submitting the *Deliverable 4B: Final Project Report* for approval.
- 4.8. Consultant shall assist MTC in producing Fact Sheets for each project by providing the required maps, tables, data or text as requested by the MTC Project Manager.

Task 4:	Preliminary Implementation and Fine-tuning
Deliverable 4A:	Draft Project Report with Benefit-Cost Analysis, including the computer models
Deliverable 4B:	Final Project Report with Benefit-Cost Analysis, including the computer models and Response to Comments Report

5. Additional Services

In addition to the basic signal coordination plans, the Consultant may also be asked to provide additional services related to the PASS projects. These services shall be requested by the project sponsor in their application and shall be included in the SSB, contingent upon approval by MTC Project Manager. Consultant shall include a detailed description of the scope of the additional service, a staffing plan, and level of effort, additional budget, and payment schedule in the SSB. If the scope of work and budget for these services cannot be reasonably negotiated, MTC, at its sole discretion, can withdraw the project assignment from the Consultant and assign a different Consultant to the project. Additional services may be requested at any stage of the project, as needed, and shall be included in a revised SSB, if approved by the MTC Project Manager.

- 5.1. Consultant may be asked to develop additional timing plans, such as incident management flush plans, transit signal priority plans, traffic responsive timing plans, weekend timing plans, school peak timing plans, etc. Such services may include additional meetings, additional data collection, field visits, technical analyses, studies, fine-tuning, conditional diagrams, etc.
- 5.2. Consultants, with the help of the transit agency, may be asked to review the existing capabilities or conditions of the transit signal priority of buses serving the project corridors. The PASS will also provide help in establishing communication between the signals and buses as this step is crucial to implementing new transit signal priority plans.

- 5.3. Consultant may be asked to work on some pilot tasks/projects to help with the expansion of PASS projects and services. These pilot tasks/projects will help MTC understand the level of effort, budget, and potential benefits to mobility and air quality that could help expand future cycles of the Program. The pilot tasks/projects may include, but not be limited to: development of advanced signal timing plans; Systems Engineering analyses; and ITS Engineering and Design.
- 5.4. Consultant may be asked to perform these additional services for any projects retimed in the last two years under the PASS. These tasks may also include updating coversheets, reformatting timing plans, evaluating the effects of new timing plans, etc.
- 5.5. Consultant may be asked to subcontract an electrical contractor or other firms with required licenses and expertise to install GPS clocks or other communications equipment for certain projects. Consultant may be asked to coordinate the installation of these equipment including assisting the local agencies in securing any permits required for the project.
- 5.6. Consultant may be asked to prepare presentation materials and/or make formal presentations on the PASS project to various policy boards and commissions.
- 5.7. Consultant may be asked to assist in organizing seminars on various topics that contribute to improved mobility and emissions reductions. The typical tasks include developing seminar outlines, securing speakers, preparing presentation materials, etc.

6. Reduced Services

Consultant may be requested to not perform some of the services listed above for certain projects. If reduced services are requested by the project sponsor or the MTC Project Manager, Consultant shall clearly document all relevant details in the SSB. The fee for reduced services shall be a percentage of the base fee per intersection, or a negotiated amount, which is commensurate with the proportion of services reduced. If these cannot be reasonably negotiated, MTC, at its sole discretion, can withdraw the project assignment from the Consultant and assign a different Consultant to the project.

B. SCHEDULE

The PASS projects have a typical schedule of one year that aligns with the MTC's fiscal year, which starts on July 1st of every year and ends on June 30th of the following year. However, on a case-by-case basis, some projects may be expedited or delayed with the approval of the MTC Project Manager. The approved schedule for each project will be finalized in the *Deliverable 1B: Final Scope of Work, Schedule, and Budget (SSB)* for the project. The following table lists the standard schedule for the PASS FY 2015/16 Cycle of Projects.

#	Deliverable/Task	Schedule* for PASS FY 2015/16 Cycle
1A	Draft Scope of Work, Schedule and Budget	Aug. 2015
1B	Final Scope of Work, Schedule and Budget (SSB)	Sept. 2015
2A	Draft Existing Conditions Report	Nov. 2015
2B	Final Existing Conditions Report	Dec. 2015
3A	Draft Recommendations Report	Jan. 2016
3B	Revised Recommendations Report	Feb. 2016
4	Preliminary Implementation and Fine-tuning	Mar. – May. 2016
4A	Draft Project Report with Benefit-cost Analysis	May – Jun. 2016
4B	Final Project Report with Benefit-cost Analysis	Jun. 2016
5.	Additional Services	To Be Negotiated
6.	Reduced Services	To Be Negotiated

*The schedule for any subsequent cycles of the PASS will have the same calendar month milestones for deliverables, but one year later.

C. **BUDGET**

1. **Signal Coordination**

The project budget for the signal timing plans shall be calculated in accordance to the table below. MTC shall pay consultants on a fixed-fee per deliverable basis, based on the following fee schedule:

Basic Services	Scenarios ^a	Budget ^b
Signal timing plans implemented remotely	3	\$2,600 per intersection
	2	\$2,300 per intersection
Signal timing plans implemented in the field	3	\$2,800 per intersection
	2	\$2,500 per intersection

Notes:

- a) Scenarios = AM peak; Mid-day peak; or PM peak
- b) Per intersection fee including payment for all services described in Tasks 1 through 4.

2. Additional Services

MTC recognizes that some projects may require additional analyses, or have approved additional services as identified above. The budget and payment schedule for these additional services are based on the level of effort to complete these tasks, and are negotiated by the MTC Project Manager. Any approved additional services shall be included in the SSB with the description of the work, schedule, approved budget and payment schedule. If any of these cannot be reasonably negotiated, MTC, at its sole discretion, can withdraw the project assignment from the Consultant and assign a different Consultant to the project.

3. Payment Schedule

Consultant shall submit one invoice per month directly to MTC Accounting for all the deliverables completed in a calendar month. Any exceptions to this rule would require the approval of the MTC Project Manager. MTC shall approve the payment after the project sponsors and the MTC Project Manager have approved the deliverable. Consultant shall negotiate the payment schedule for the Additional Services or Reduced Services and include it in *Deliverable 1B: Final Scope of Work, Schedule, and Budget (SSB)* with the approval of MTC Project Manager. In general, this payment schedule will be based on the level of effort expended by the Consultant for that particular task. MTC shall pay Consultants by deliverable-based tasks based on the following payment schedule.

#	Deliverable/Task	Payment
1A	Draft Scope of Work, Schedule and Budget	5% of Project Budget
1B	Final Scope of Work, Schedule and Budget (SSB)	5% of Project Budget
2A	Draft Existing Conditions Report	30% of Project Budget
2B	Final Existing Conditions Report	10% of Project Budget
3A	Draft Recommendations Report	15% of Project Budget
3B	Revised Recommendations Report	10% of Project Budget
4	Preliminary Implementation and Fine-tuning	15% of Project Budget
4A	Draft Project Report with Benefit-cost Analysis	5% of Project Budget
4B	Final Project Report with Benefit-cost Analysis	5% of Project Budget
5	Additional Services	To Be Negotiated
6	Reduced Services	To Be Negotiated

APPENDIX B, CALIFORNIA LEVINE ACT STATEMENT

California Government Code § 84308, commonly referred to as the “Levine Act,” precludes an officer of a local government agency from participating in the award of a contract if he or she receives any political contributions totaling more than \$250 in the 12 months preceding the pendency of the contract award, and for three months following the final decision, from the person or company awarded the contract. This prohibition applies to contributions to the officer, or received by the officer on behalf of any other officer, or on behalf of any candidate for office or on behalf of any committee.

MTC’s commissioners include:

Adrienne J. Tissier
Alicia C. Aguirre
Amy Rein Worth
Anne W. Halsted
Bijan Sartipi
Dave Cortese
David Campos

Dorene M. Giacopini
Federal D. Glover
Jake Mackenzie
James P. Spering
Jason Baker
Julie Pierce
Libby Schaaf

Mark Luce
Sam Liccardo
Scott Haggerty
Scott Wiener
Steve Kinsey
Tom Azumbrado
Tom Bates

1. Have you or your company, or any agent on behalf of you or your company, made any political contributions of more than \$250 to any MTC commissioner in the 12 months preceding the date of the issuance of this request for qualifications?

☐ YES ☐ NO

If yes, please identify the commissioner: _____

2. Do you or your company, or any agency on behalf of you or your company, anticipate or plan to make any political contributions of more than \$250 to any MTC commissioners in the three months following the award of the contract?

☐ YES ☐ NO

If yes, please identify the commissioner: _____

Answering yes to either of the two questions above does not preclude MTC from awarding a contract to your firm. It does, however, preclude the identified commissioner(s) from participating in the contract award process for this contract.

DATE

(SIGNATURE OF AUTHORIZED OFFICIAL)

(TYPE OR WRITE APPROPRIATE NAME, TITLE)

(TYPE OR WRITE NAME OF COMPANY)

APPENDIX C, MTC STANDARD CONSULTANT AGREEMENT**PROFESSIONAL SERVICES AGREEMENT****Between METROPOLITAN TRANSPORTATION COMMISSION****And INSERT NAME OF CONSULTANT****For INSERT BRIEF DESCRIPTION**

THIS AGREEMENT is made and entered into as of the xx day of Month, 20____, by and between the Metropolitan Transportation Commission (herein called "MTC "), a regional transportation planning agency established pursuant to California Government Code § 66500. and INSERT NAME OF CONSULTANT, (herein called "CONSULTANT""**CONTRACTOR**" **MAY BE SUBSTITUTED, IF APPROPRIATE**), a **PICK ONE OF THE FOLLOWING:** partnership, _____[state of incorporation] corporation/ nonprofit corporation/joint venture organized under the laws of the State of _____.

RECITALS

WHEREAS, MTC intends to **INSERT BRIEF DESCRIPTION OF PROJECT** (herein called "the Project"); and

WHEREAS, the services required for the Project cannot be performed satisfactorily by the officers and employees of MTC; and

WHEREAS, MTC has obtained federal funds from the United States Department of Transportation ("U.S. DOT") to assist in financing the Project, and the federally-required clauses in Attachment H, Federally-Required Clauses, attached hereto and incorporated herein, apply to the Project;

WHEREAS, the parties hereto now wish to enter into an agreement (the "Agreement") pursuant to which CONSULTANT will render professional services in connection with the Project as hereinafter provided.

NOW, THEREFORE, the parties hereto agree as follows:

1. **SCOPE OF SERVICES**

CONSULTANT's services are described in Attachment A, Scope of Work, attached hereto and incorporated herein by this reference. CONSULTANT agrees to perform or secure the performance of all specified services within the maximum payment specified in Article 3,

subject to the prior written approval of a work plan by Lin Zhang (herein called "MTC Project Manager"). As MTC Project Manager, Lin Zhang is responsible for communication with CONSULTANT and the administration of this Agreement. MTC'S Executive Director or designated representative may substitute a new MTC Project Manager by written notice to CONSULTANT.

CONSULTANT's point of contact and the individual authorized to communicate to MTC on behalf of CONSULTANT is **INSERT NAME OF CONSULTANT's PM** ("CONSULTANT Project Manager"). A change in the CONSULTANT Project Manager requires MTC written approval.

1.1 PROGRESS REPORTS

CONSULTANT shall provide MTC with monthly progress reports according to the schedule and form approved by the MTC Project Manager.

1.2 SUBMISSION OF CONTRACT DOCUMENTS

To the extent requested by the MTC Project Manager, CONSULTANT shall submit communications and required documentation, including but not limited to invoices, requests for contract modifications, and information on payments received and made to subconsultants, subconsultant utilization, and if applicable, certified payrolls, to the MTC PROJECT MANAGER or his or her designee via a one or more web-based systems designated by MTC to which MTC will provide CONSULTANT with system access. MTC may withhold payment of invoices pending receipt of such communications and required documentation via the applicable web-based system.

2. PERIOD OF PERFORMANCE

CONSULTANT's services hereunder shall commence on or after _____, 201__, and shall be completed no later than _____, 201__, unless extended by duly executed amendment or earlier terminated, as hereinafter provided. CONSULTANT's services shall be performed in accordance with the schedule included in Attachment B, Project Schedule, attached hereto and incorporated herein by this reference.

3. COMPENSATION AND METHOD OF PAYMENT

Subject to duly executed amendments, MTC will pay CONSULTANT for its services as described in Attachment A a total amount including (as applicable) labor, supervision, applicable surcharges such as taxes, insurance, and fringe benefits, indirect costs, overhead, profit, subcontractors costs (including mark-up), travel, equipment, materials and supplies, expenses

and any fixed fee not to exceed [**SPELL OUT AMOUNT IN WHOLE DOLLARS (\$_____)**] (“Maximum Payment”). MTC shall make payments to CONSULTANT in accordance with the provisions described in Attachment C, Compensation and Method of Payment, attached hereto and incorporated herein by this reference.

All invoices shall be made in writing and delivered or mailed to MTC as follows:

Attention: Accounting Section
Metropolitan Transportation Commission
Joseph P. Bort MetroCenter
101 - 8th Street
Oakland, CA 94607-4700

Payment shall be made by MTC within thirty (30) days of receipt of an acceptable invoice, approved by the Project Manager or a designated representative.

4. KEY PERSONNEL

The key personnel to be assigned to this work by CONSULTANT and, if applicable, their hourly rates and the estimated hours to be supplied by each are set forth in Attachment D, Key Personnel, attached hereto and incorporated herein by this reference. Substitution of any of the personnel named in Attachment D or a decrease in the hours provided to the project by such personnel of more than 10% requires the prior written approval of the Project Manager or a designee. CONSULTANT shall maintain records documenting compliance with this Article, which shall be subject to the audit requirements of Article 15. CONSULTANT agrees that all personnel assigned to this work will be professionally qualified for the assignment to be undertaken. MTC reserves the right to direct removal of any individual, including key personnel, assigned to this work.

5. AMENDMENTS

MTC reserves the right to request changes in the services to be performed by CONSULTANT. All such changes shall be incorporated in written amendments, which shall specify the changes in work performed and any adjustments in compensation and schedule. All amendments shall be executed by the Executive Director or a designated representative and CONSULTANT and specifically identified as amendments to the Agreement. The MTC Project Manager is not a designated representative, for purposes of approving an amendment.

6. TERMINATION

A. Termination for Convenience. MTC may terminate this Agreement for convenience, in whole or in part, at any time by written notice to CONSULTANT. Upon receipt of notice of termination, CONSULTANT shall stop work under this Agreement immediately, to the extent provided in the notice of termination, and shall promptly submit its termination claim to MTC. CONSULTANT shall be reimbursed for costs incurred for incomplete deliverables up to the time of termination and a reasonable profit not to exceed 1%, plus reasonable termination costs, not to exceed the amount payable for such deliverables. If CONSULTANT has any property in its possession belonging to MTC, CONSULTANT will account for the same, and dispose of it in the manner MTC directs. Except as provided above, MTC shall not in any manner be liable for CONSULTANT's actual or projected lost profits had CONSULTANT completed the services required by this Agreement.

B. Termination for Default. If CONSULTANT does not deliver the work products specified in this Agreement in accordance with the delivery schedule or fails to perform in the manner called for in the Agreement, or if CONSULTANT fails to comply with any other material provision of the Agreement, MTC may terminate this Agreement for default. Termination shall be effected by serving a fifteen (15) day advance written notice of termination on CONSULTANT, setting forth the manner in which CONSULTANT is in default. If CONSULTANT does not cure the breach or describe to MTC's satisfaction a plan for curing the breach within the fifteen (15) day period, MTC may terminate the Agreement for default. In the event of such termination for default, CONSULTANT will be entitled to be reimbursed only for work performed in full compliance with the contract requirements as follows: CONSULTANT shall be reimbursed for costs incurred for incomplete deliverables up to the time of termination, not to exceed the amount payable for such deliverables. Such reimbursement will be offset by any costs incurred by MTC to complete work required under the Agreement. In no event shall MTC be required to reimburse CONSULTANT for any costs incurred for work causing or contributing to the default. If CONSULTANT has any property in its possession belonging to MTC, CONSULTANT will account for the same, and dispose of it in the manner MTC directs. MTC shall not in any manner be liable for the CONSULTANT's actual or projected lost profits had the CONSULTANT completed the services required by this Agreement.

C. If it is determined by MTC that CONSULTANT's failure to perform resulted from unforeseeable causes beyond the control of CONSULTANT, such as a strike, fire, flood, earthquake or other event that is not the fault of, or is beyond the control of CONSULTANT, MTC, after setting up a new delivery or performance schedule, may allow CONSULTANT to continue work, or treat the termination as a termination for convenience.

7. INSURANCE AND FINANCIAL SECURITY REQUIREMENTS

CONSULTANT shall, at its own expense, obtain and maintain in effect at all times during the life of this Agreement the types of insurance and financial security listed in Attachment E, Insurance and Financial Security (Bond) Provisions, attached hereto and incorporated herein, against claims, damages and losses due to injuries to persons or damage to property or other losses that may arise in connection with the performance of work under this Agreement. All insurance must be placed with insurers with a Best's rating of A-VIII or better.

8. INDEPENDENT CONTRACTOR

CONSULTANT is an independent contractor and not an employee or agent of MTC and has no authority to contract or enter into any agreement in the name of MTC. CONSULTANT has, and hereby retains, full control over the employment, direction, compensation and discharge of all persons employed by CONSULTANT who are assisting in the performance of services under this Agreement. CONSULTANT shall be fully responsible for all matters relating to the payment of its employees, including compliance with social security, withholding tax and all other laws and regulations governing such matters. CONSULTANT shall be responsible for its own acts and those of its agents and employees during the term of this Agreement.

9. INDEMNIFICATION

CONSULTANT agrees to indemnify and hold harmless MTC and those entities (if any) identified as additional insureds in Attachment E, Insurance and Financial Security (Bond) Provisions, and their commissioners, directors, officers, agents, and employees (collectively "MTC Indemnified Parties") from and against any and all claims, demands, actions, causes of action, damages, liability, obligation, costs and expenses (including attorneys' fees and costs) of any kind whatsoever, including (without limitation) those for personal injuries (including, but not limited to death, bodily injuries, emotional or mental distresses and losses of consortium), property damages or pecuniary, financial or economic losses of any kind whatsoever (collectively "Claims and Losses") if the Claims and Losses are caused by CONSULTANT's breach of obligations under this Agreement, willful misconduct, or negligent services performed under this Agreement. It is understood and agreed that CONSULTANT has no obligation to indemnify and hold the MTC Indemnified Parties harmless if the Claims and Losses are caused by the sole active negligence of the MTC Indemnified Parties.

CONSULTANT further agrees to immediately defend the MTC Indemnified Parties with respect to any Claims and Losses if such Claims and Losses are alleged to arise out of or relate to any allegations of CONSULTANT's breach of obligations under this Agreement, willful misconduct, or negligent services performed under this Agreement. As part of this defense obligation, CONSULTANT agrees to either retain counsel to defend the MTC Indemnified

Parties or pay charges of the MTC Indemnified Parties' attorneys with regard to the Claims and Losses. CONSULTANT's duty to defend shall apply and be enforced even if it is alleged that the acts, omissions or failures to act of parties other than CONSULTANT, including the MTC Indemnified Parties, caused or contributed to the Claims and Losses.

The provisions set forth in this Section are intended to be applied to the fullest extent allowed under the law and, if any portion of it is found to be void or unenforceable, the remainder is to be severable and enforceable. This indemnification shall survive termination or expiration of this Agreement.

10. DATA TO BE FURNISHED BY MTC

All data, reports, surveys, studies, drawings, software (object or source code), electronic databases, and any other information, documents or materials ("MTC Data") made available to CONSULTANT by MTC for use by CONSULTANT in the performance of its services under this Agreement shall remain the property of MTC and shall be returned to MTC at the completion or termination of this Agreement. No license to such MTC Data, outside of the Scope of Work of the Project, is conferred or implied by CONSULTANT's use or possession of such MTC Data. Any updates, revisions, additions or enhancements to such MTC Data made by CONSULTANT in the context of the Project shall be the property of MTC and subject to the provisions of Article 11.

11. OWNERSHIP OF WORK PRODUCTS

All drawings, designs, specifications, manuals, reports, studies, surveys, models, software, source code and source code documentation, documentation or system architecture and any other documents, materials, data and products ("Work Products") prepared or assembled and furnished to MTC by CONSULTANT or its subconsultants pursuant to this Agreement shall be and are the property of MTC. MTC shall be entitled to copies and access to these materials during the progress of the work. Any such materials remaining in the hands of the CONSULTANT or in the hands of any subconsultant upon completion or termination of the work shall be immediately delivered to MTC. CONSULTANT hereby assigns to MTC ownership of any and all rights, title and interest in and to such Work Products, including ownership of any copyright, patent, trademark, trade secret, or other intellectual property or proprietary rights in the Work Product. CONSULTANT also agrees to execute all papers necessary for MTC to perfect its ownership of the rights in the Work Product. Notwithstanding the above, "Work Products" are not intended nor shall they be construed to include CONSULTANT'S pre-existing intellectual property secured, developed, written, or produced by CONSULTANT prior to the execution of this Agreement or developed concurrently with this

Agreement but not specifically for this Agreement; CONSULTANT shall retain all right, title and interest in any such pre-existing intellectual property.

CONSULTANT shall be responsible for the preservation of any and all such Work Products prior to transmittal to MTC, and CONSULTANT shall replace any such Work Products as are lost, destroyed, or damaged while in its possession without additional cost to MTC.

CONSULTANT represents and warrants that all materials prepared under this Agreement are original or developed from materials in the public domain (or both) and that all materials prepared under and services provided under this Agreement do not infringe or violate any copyright, trademark, patent, trade secret, or other intellectual-property or proprietary right of any third party.

12. SUBCONTRACTS

A. Subconsultants approved by MTC for subcontract work under this Agreement are listed in Attachment F, Subconsultant List, attached hereto and incorporated herein by this reference. Any subconsultants must be engaged under written contract with the CONSULTANT with provisions allowing the CONSULTANT to comply with all requirements of this Agreement, including without limitation Article 11, OWNERSHIP OF WORK PRODUCTS. Failure of a subconsultant to provide insurance in accordance with Article 7, INSURANCE REQUIREMENTS, shall be at the risk of CONSULTANT.

B. Nothing contained in this Agreement or otherwise, shall create any contractual relation between MTC and any subcontractors, and no subcontract shall relieve CONSULTANT of his/her responsibilities and obligations hereunder. CONSULTANT agrees to be as fully responsible to MTC for the acts and omissions of its subcontractors and of persons either directly or indirectly employed by any of them as it is for the acts and omissions of persons directly employed by CONSULTANT. CONSULTANT's obligation to pay its subcontractors is an independent obligation from MTC's obligation to make payments to CONSULTANT.

C. Any substitution of subcontractors listed in Attachment F must be approved in writing by MTC's Project Manager in advance of assigning work to a substitute subcontractor.

D. Applicable provisions of this Agreement shall be included in any subcontract or subconsultant agreement in excess of \$25,000 entered into under of this Agreement.

13. ASSIGNMENT OF AGREEMENT

CONSULTANT shall not assign this Agreement, or any part thereof without prior express written consent of the Project Manager or a designated representative, and any attempt thereat shall be void and unenforceable.

14. RECORDS

CONSULTANT agrees to establish and maintain an accounting system conforming to Generally Accepted Accounting Principles (GAAP) that is adequate to accumulate and segregate reasonable, allowable, and allocable project costs. CONSULTANT further agrees to keep all records pertaining to the project being funded for audit purposes for a minimum of four (4) years following the fiscal year of last expenditure under the Agreement; or until completion of any litigation, claim or audit, whichever is longer. Any conflicting language regarding retention of records contained in Attachment H, Federally-Required Clauses, shall supersede this Article.

15. AUDITS

CONSULTANT shall permit MTC, and its authorized representatives to have access to CONSULTANT's books, records, accounts, and any and all work products, materials, and other data relevant to this Agreement, for the purpose of making an audit, examination, excerpt and transcription during the term of this Agreement and for the period specified in Article 14. CONSULTANT shall in no event dispose of, destroy, alter, or mutilate said books, records, accounts, work products, materials and data for that period of time.

CONSULTANT further agrees to include in all its subcontracts hereunder exceeding \$25,000 a provision to the effect that the subcontractor agrees that MTC, or any of its duly authorized representatives shall have access to and the right to examine any directly pertinent books, documents, papers, and records of such subcontractor for the term specified above.

Any conflicting language regarding audits contained in Attachment H, Federally-Required Clauses, shall supersede this Article.

16. NOTICES

Except for invoices submitted by CONSULTANT pursuant to Article 3, all notices or other communications to either party by the other shall be deemed given when made in writing and delivered, mailed, emailed, or faxed to such party at their respective addresses as follows:

To MTC:

Attention: Lin Zhang, Project Manager
Metropolitan Transportation Commission
101 - 8th Street
Oakland, CA 94607-4700
Email: lzhang@mtc.ca.gov
Fax: 510.817.5616

To CONSULTANT:

Attention: **Insert Name of Appropriate Person**
Consultant's name

Consultant's address

Consultant's address

Email: X

Fax: X

17. SOLICITATION OF CONTRACT

CONSULTANT warrants that it has not employed or retained any company or persons, other than a bona fide employee working solely for CONSULTANT, to solicit or secure this Agreement, and that it has not paid or agreed to pay any company or person other than bona fide employees working solely for CONSULTANT, any fee, commission, percentage, brokerage fee, gift, or any other consideration contingent upon or resulting from the award or making of the Agreement. For breach or violation of this warranty, MTC shall have the right to terminate the Agreement without liability or, at its discretion, the right to deduct from CONSULTANT's maximum payment the full amount of such fee, commission, percentage, brokerage fee, gift or contingent consideration.

18. PROHIBITED INTERESTS

CONSULTANT covenants that it presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree or have the potential of conflicting with the performance of services required under the Agreement or the impartial rendering of assistance or advice to MTC. CONSULTANT further covenants that in the performance of the Agreement no person having any such interest shall be employed.

No member, officer, employee or agent of MTC, during his/her tenure shall have any prohibited interest as defined by California Government Code Sections 1090, *et seq.* and 87100 *et seq.*, direct or indirect, in the Agreement or the proceeds thereof. Prohibited interests include interests of immediate family members, domestic partners, and their employers or prospective employers. Accordingly, CONSULTANT further covenants that it has made a complete disclosure to MTC of all facts of which it is aware upon due inquiry bearing upon any possible interest, direct or indirect, which it believes any member, officer, agent or employee of MTC (or an immediate family member, domestic partner or employer or prospective employer of such member, officer, agent or employee) presently has, or will have in the Agreement, or in the performance thereof, or in any portion of the profits thereunder. Willful failure to make such disclosure, if any, shall constitute grounds for cancellation and termination hereof by MTC.

18.1 ORGANIZATIONAL CONFLICTS OF INTEREST

CONSULTANT shall take all reasonable measures to preclude the existence or development of an organizational conflict of interest in connection with work performed under

this Agreement. An organizational conflict of interest occurs when, due to other activities, relationships, or contracts, a firm or person is unable, or potentially unable, to render impartial assistance or advice to MTC; a firm or person's objectivity in performing the contract work is or might be impaired; or a firm or person has an unfair competitive advantage in proposing for award of a contract as a result of information gained in performance of this or some other Agreement.

CONSULTANT shall not engage the services of any subconsultant or independent contractor on any work related to this Agreement if the subconsultant or independent contractor, or any employee of the subconsultant or independent contractor, has an actual or apparent organizational conflict of interest related to work or services contemplated under this Agreement.

If at any time during the term of this Agreement CONSULTANT becomes aware of an organizational conflict of interest in connection with the work performed hereunder, CONSULTANT shall immediately provide MTC with written notice of the facts and circumstances giving rise to this organizational conflict of interest. CONSULTANT's written notice will also propose alternatives for addressing or eliminating the organizational conflict of interest. If at any time during the period of performance of this Agreement, MTC becomes aware of an organizational conflict of interest in connection with CONSULTANT's performance of the work hereunder, MTC shall similarly notify CONSULTANT. In the event a conflict is presented, whether disclosed by CONSULTANT or discovered by MTC, MTC will consider the conflict presented and any alternatives proposed and meet with CONSULTANT to determine an appropriate course of action. MTC's determination as to the manner in which to address the conflict shall be final.

Failure to comply with this section may subject the CONSULTANT to damages incurred by the MTC in addressing organizational conflicts that arise out of work performed by CONSULTANT, or to termination of this Agreement for breach.

19. LAWS AND REGULATIONS

CONSULTANT shall comply with any and all applicable laws, statutes, ordinances, rules, regulations, and procedural requirements of any national, state, or local government, and of any agency of such government, including but not limited to MTC, that relate to or in any manner affect the performance of the Agreement. Those laws, statutes, ordinances, rules, regulations and procedural requirements which are imposed on MTC as a recipient of federal or state funds are hereby in turn imposed on CONSULTANT. Attachment H and its parts, Federally Required Clauses, and Attachment I and its parts, State Required Clauses, are attached hereto and incorporated herein by this reference.

20. CLAIMS OR DISPUTES

CONSULTANT shall be solely responsible for providing timely written notice to MTC of any claims for additional compensation and/or time in accordance with the provisions of the Agreement. It is MTC's intent to investigate and attempt to resolve any CONSULTANT claims before CONSULTANT has performed any disputed work. Therefore, CONSULTANT's failure to provide timely notice shall constitute a waiver of CONSULTANT's claims for additional compensation and/or time.

CONSULTANT shall not be entitled to the payment of any additional compensation for any cause, including any act, or failure to act, by MTC, or the failure or refusal to issue a modification, or the happening of any event, thing, or occurrence, unless it has given MTC due written notice of a potential claim. The potential claim shall set forth the reasons for which CONSULTANT believes additional compensation may be due, the nature of the costs involved, and the amount of the potential claim.

Such notice shall be given to MTC prior to the time that CONSULTANT has started performance of the work giving rise to the potential claim for additional compensation.

If there is a dispute over any claim, CONSULTANT shall continue to work during the dispute resolution process in a diligent and timely manner as directed by MTC, and shall be governed by all applicable provisions of the Agreement. CONSULTANT shall maintain cost records of all work that is the basis of any dispute.

If an agreement can be reached which resolves CONSULTANT's claim, the parties will execute an Agreement modification to document the resolution of the claim. If the parties cannot reach an agreement with respect to the CONSULTANT claim, they may choose to pursue dispute resolution pursuant to Article 24, DISPUTE RESOLUTION, or MTC may terminate the Agreement.

21. REMEDIES FOR BREACH

In the event CONSULTANT fails to comply with the requirements of the Agreement in any way, MTC reserves the right to implement administrative remedies which may include, but are not limited to, withholding of progress payments and contract retentions, and termination of the Agreement in whole or in part.

The duties and obligations imposed by the Agreement and the rights and remedies available thereunder shall be in addition to and not a limitation of any duties, obligations, rights and remedies otherwise imposed or available by law. No action or failure to act by MTC or CONSULTANT shall constitute a waiver of any right or duty afforded any of them under the Agreement, nor shall any such action or failure to act constitute an approval of or acquiescence in any breach thereunder, except as may be specifically agreed in writing.

22. TEMPORARY SUSPENSION OF WORK

MTC, in its sole discretion, reserves the right to stop or suspend all or any portion of the work for such period as MTC may deem necessary. The suspension may be due to the failure on the part of CONSULTANT to carry out orders given or to perform any provision of the Agreement or to factors that are not the responsibility of CONSULTANT. The CONSULTANT shall comply immediately with the written order of MTC to suspend the work wholly or in part. The suspended work shall be resumed when CONSULTANT is provided with written direction from MTC to resume the work.

If the suspension is due to CONSULTANT's failure to perform work or carry out its responsibilities in accordance with this Agreement, or other action or omission on the part of the CONSULTANT, all costs shall be at CONSULTANT's expense and no schedule extensions will be provided by MTC.

In the event of a suspension of the work, CONSULTANT shall not be relieved of CONSULTANT's responsibilities under this Agreement, except the obligations to perform the work which MTC has specifically directed CONSULTANT to suspend under this section.

If the suspension is not the responsibility of CONSULTANT, suspension of all or any portion of the work under this Section may entitle CONSULTANT to compensation and/or schedule extensions subject to the Agreement requirements.

23. WARRANTY OF SERVICES

A. In the performance of its services, CONSULTANT represents and warrants that it has and will exercise the degree of professional care, skill, efficiency, and judgment of consultants with special expertise in providing such services, and that it carries and will maintain all applicable licenses, certificates, and registrations needed for the work in current and good standing. In addition, CONSULTANT shall provide such specific warranties as may be set forth in specific Task Orders as agreed upon by the parties.

B. In the event that any services provided by CONSULTANT hereunder are deficient because of CONSULTANT's or subconsultants failure to perform said services in accordance with the warranty standards set forth above, MTC shall report such deficiencies in writing to the CONSULTANT within a reasonable time. MTC thereafter shall have:

1. The right to have CONSULTANT re-perform such services at the CONSULTANT's expense; or
2. The right to have such services done by others and the costs thereof charged to and collected from the CONSULTANT if within 30 days after written notice to

CONSULTANT requiring such re-performance, CONSULTANT fails to give satisfactory evidence to the MTC that it has undertaken said re-performance; or

3. The right to terminate the Agreement for default. CONSULTANT shall be responsible for all errors and omissions and is expected to pay for all deficient work as a result of errors and omissions.

24. DISPUTE RESOLUTION

A. Informal Resolution of Disputes. CONSULTANT and MTC shall use good faith efforts to resolve all disputes informally at the project manager level. In the event such efforts are unsuccessful, either party may request that MTC provide a written determination as to the proposed resolution of the dispute. Within twenty-one (21) calendar days of the request, MTC's Project Manager shall provide a written determination as to the dispute, which shall include the basis for its decision. Upon CONSULTANT's written acceptance of the Project Manager's determination, the Agreement may be modified and the determination implemented or, failing agreement, MTC may in its sole discretion pay such amounts and/or revise the time for performance in accordance with the Project Manager's determination.

If the Project Manager's determination is not accepted by CONSULTANT, the matter shall promptly be referred to senior executives of the parties having designated authority to settle the dispute. The senior executives will exchange memoranda stating the issues in dispute and their respective positions and then meet for negotiations at a mutually agreed time and place. If the matter has not been resolved within thirty calendar (30) days of commencement of senior management negotiations, the parties may mutually agree to try to settle the dispute by means of alternate dispute resolution methodologies, as set forth below.

B. Controversies Subject to Alternative Dispute Resolution. Any claim or controversy concerning the interpretation, application, or implementation of this Agreement between MTC and CONSULTANT which cannot be resolved through the informal efforts described above, may, by specific agreement of the parties, be submitted to alternative dispute resolution (that is, mediation or arbitration) with the parameters for such dispute resolution being agreed to by the parties at the time.

C. Other Remedies. If a dispute is not resolved through discussion or the parties do not agree to alternative dispute resolution, either party may pursue available legal remedies in a California State or Federal court of competent jurisdiction. CONSULTANT must file a government claim pursuant to Government Code section 910 *et seq.* in order to initiate a civil action.

D. Pending Resolution. CONSULTANT shall continue to work during the dispute resolution process in a diligent and timely manner as directed by MTC, and shall be governed by all applicable provisions of the Agreement.

E. Cost of Alternative Dispute Resolution Proceedings. Each party shall bear the costs and expenses incurred by it in connection with such alternative dispute resolution processes. The cost of any mediator or independent decision maker shall be shared equally between the parties.

F. Survival of this Article. This Article shall survive completion or terminations of this Agreement, but under no circumstances shall either party call for an alternative dispute resolution of any claim or dispute arising out of this Agreement after such period of time as would normally bar the initiation of legal proceeding to litigate such claim or dispute under the laws of the State of California.

25. CHOICE OF LAW

All questions pertaining to the validity and interpretation of the Agreement shall be determined in accordance with the laws of California applicable to agreements made and to be performed within the State.

26. ATTORNEYS' FEES

If any legal proceeding should be instituted by either of the parties to enforce the terms of this Agreement or to determine the rights of the parties under this Agreement, the prevailing party in said proceeding shall recover reasonable attorneys' fees, in addition to all court costs.

27. PARTIAL INVALIDITY

If any term or condition of the Agreement is found to be illegal or unenforceable, such term or condition shall be deemed stricken and the remaining terms and conditions shall remain valid and in full force and effect.

28. BENEFIT OF AGREEMENT

The Agreement shall bind and benefit the parties hereto and their heirs, successors, and permitted assigns.

29. NO THIRD PARTY BENEFICIARIES

This Agreement is not for the benefit of any person or entity other than the parties.

30. ENTIRE AGREEMENT; MODIFICATION

This Agreement for Services, including any attachments, constitutes the complete Agreement between the parties and supersedes any prior written or oral communications. CONSULTANT represents that in entering into the Agreement it has not relied on any previous representations, inducements, or understandings of any kind or nature. This Agreement may be modified or amended only by written instrument signed by both the CONSULTANT and MTC. In the event of a conflict between the terms and conditions of this Agreement and the attachments, the terms of this Agreement will prevail.

IN WITNESS WHEREOF, the Agreement has been executed by the parties hereto as of the day and year first written above.

METROPOLITAN TRANSPORTATION
COMMISSION

NAME OF CONSULTANT

Steve Heminger, Executive Director

Insert Appropriate Name, Title

ATTACHMENT A
Scope of Work
Outline of Services

The services to be performed by CONSULTANT shall consist of services requested by the Project Manager or a designated representative including, but not limited to, the following:

ATTACHMENT B
Project Schedule

Task #	Work to be Performed/Deliverables (#)	Completion Date

ATTACHMENT C

Compensation and Method of Payment

A. Compensation. CONSULTANT shall be paid, as full compensation for the satisfactory completion of the work described in Attachment A, the firm fixed sum of agreed upon amount, which includes all labor, supervision, applicable surcharges such as taxes, insurance, and fringe benefits, as well as indirect costs, overhead and profit allowance, subcontractors costs, travel, equipment, materials and supplies. Any amendments to this Agreement shall be based on the hourly rates set forth in Attachment D, Key Personnel, attached hereto and incorporated herein by this reference. In no event shall the total compensation to be paid CONSULTANT under the Agreement exceed the Maximum Payment specified in Article 3 of the Agreement.

B. Progress Payments. Payment for CONSULTANT's services shall be due in the amounts indicated below, upon acceptance by Project Manager of the following deliverables or milestones, described in detail in Attachment A:

Task	<u>Deliverables (#)</u>	<u>Amount Due</u>
1	Do this (#1)	\$0
2	Do that (#2)	\$0
		0
	Excel is inside Word Tables. Highlight field, hit F9 or Table Formula = Format \$.	\$0.00
		highlight #, hit F9

. Method of Payment. CONSULTANT shall submit invoices for services rendered on a monthly basis, identifying the work for which payment is requested; the hours worked; any authorized expenses, together with receipts for such expenses; the amount requested; and the cumulative amount billed and paid under this Agreement. If applicable, CONSULTANT's final invoice must include the certification that all Personally Identifiable Information (PII) has been destroyed in accordance with Attachment G.

ATTACHMENT D
Key Personnel Assignments

	<u>Name</u>	<u>Rate/hour*</u>	<u>Est. hours</u>	<u>Task Description</u>
1.		\$xx		
2.				
3.				
4.				
5.				
6.				
7.				
8.				

* Applicable to development of payment provisions in amendments only.

ATTACHMENT E

Insurance and Financial Security (Bond) Provisions

1. INSURANCE

A. Minimum Coverages. The insurance requirements specified in this section shall cover CONSULTANT's own liability and the liability arising out of work or services performed under this Agreement by any subconsultants, subcontractors, suppliers, temporary workers, independent contractors, leased employees, or any other persons, firms or corporations that CONSULTANT authorizes to work under this Agreement (hereinafter referred to as "Agents.") CONSULTANT shall, at its own expense, obtain and maintain in effect at all times during the life of this Agreement the following types of insurance against claims, damages and losses due to injuries to persons or damage to property or other losses that may arise in connection with the performance of work under this Agreement.

CONSULTANT is also required to assess the risks associated with work to be performed by Agents under subcontract and to include in every subcontract the requirement that the Agent maintain adequate insurance coverage with appropriate limits and endorsements to cover such risks. To the extent that an Agent does not procure and maintain such insurance coverage, CONSULTANT shall be responsible for said coverage and assume any and all costs and expenses that may be incurred in securing said coverage or in fulfilling CONSULTANT's indemnity obligation as to itself or any of its Agents in the absence of coverage.

In the event CONSULTANT or its Agents procure excess or umbrella coverage to maintain certain requirements outlined below, these policies shall also satisfy all specified endorsements and stipulations, including provisions that CONSULTANT's insurance be primary without right of contribution from MTC. Prior to beginning work under this contract, CONSULTANT shall provide MTC with satisfactory evidence of compliance with the insurance requirements of this section.

1. Workers' Compensation Insurance with Statutory limits, and Employer's Liability insurance with a limit of not less than \$1,000,000 per employee and \$1,000,000 per accident, and any and all other coverage of CONSULTANT's employees as may be required by applicable law. Such policy shall contain a Waiver of Subrogation in favor of MTC. Such Workers Compensation & Employers Liability may be waived, if and only for as long as CONSULTANT is a sole proprietor or a corporation with stock 100% owned by officers with no employees.

2. Commercial General Liability Insurance for Bodily Injury and Property Damage liability, covering the operations of CONSULTANT and CONSULTANT's officers, agents, and employees and with limits of liability which shall not be less than \$1,000,000

combined single limit per occurrence with a general aggregate liability of not less than \$2,000,000, and Personal & Advertising Injury liability with a limit of not less than \$1,000,000. Such policy shall contain a Waiver of Subrogation in favor of MTC.

MTC and those entities listed in Part 3 of this Attachment E (if any), and their commissioners, directors, officers, representatives, agents and employees are to be named as additional insureds. Such insurance shall be primary and contain a Separation of Insureds Clause as respects any claims, losses or liability arising directly or indirectly from CONSULTANT's operations.

3. Business Automobile Insurance for all automobiles owned (if any), used or maintained by CONSULTANT and CONSULTANT's officers, agents and employees, including but not limited to owned (if any), leased (if any), non-owned and hired automobiles, with limits of liability which shall not be less than \$1,000,000 combined single limit per accident.

4. Umbrella Insurance in the amount of \$1,000,000 providing excess limits over Employer's Liability, Automobile Liability, and Commercial General Liability Insurance. Such umbrella coverage shall be following form to underlying coverage including all endorsements and additional insured requirements.

5. Errors and Omissions Professional Liability Insurance for errors and omissions and the resulting damages, including, but not limited to, economic loss to MTC and having minimum limits of \$1,000,000 per claim.

The policy shall provide coverage for all work performed by CONSULTANT and any work performed or conducted by any subcontractor/consultant working for or performing services on behalf of the CONSULTANT. No contract or agreement between CONSULTANT and any subcontractor/consultant shall relieve CONSULTANT of the responsibility for providing this Errors & Omissions or Professional Liability coverage for all work performed by CONSULTANT and any subcontractor/consultant working on behalf of CONSULTANT on the project.

6. Property Insurance. Property Insurance covering CONSULTANT'S own business personal property and equipment to be used in performance of this Agreement, materials or property to be purchased and/or installed on behalf of MTC (if any), and builders risk for property in the course of construction (if applicable). Coverage shall be written on a "Special Form" policy that includes theft, but excludes earthquake, with limits at least equal to the replacement cost of the property. Such policy shall contain a Waiver of Subrogation in favor of MTC.

B. Acceptable Insurers. All policies will be issued by insurers acceptable to MTC, generally with a Best's Rating of A-VIII or better.

C. Self-Insurance. CONSULTANT's obligation hereunder may be satisfied in whole or in part by adequately funded self-insurance, upon evidence of financial capacity satisfactory to MTC.

D. Deductibles and Retentions. CONSULTANT shall be responsible for payment of any deductible or retention on CONSULTANT's policies without right of contribution from MTC. Deductible and retention provisions shall not contain any restrictions as to how or by whom the deductible or retention is paid. Any deductible or retention provision limiting payment to the Named Insured is unacceptable.

In the event that MTC seeks coverage as an additional insured under any CONSULTANT insurance policy that contains a deductible or self-insured retention, CONSULTANT shall satisfy such deductible or self-insured retention to the extent of loss covered by such policy, for any lawsuit arising from or connected with any alleged act of CONSULTANT, subconsultant, subcontractor, or any of their employees, officers or directors, even if CONSULTANT or subconsultant is not a named defendant in the lawsuit.

E. Claims Made Coverage. . If any insurance specified above is written on a "Claims-Made" (rather than an "occurrence") basis, then in addition to the coverage requirements above, CONSULTANT shall:

- (1) Ensure that the Retroactive Date is shown on the policy, and such date must be before the date of this Agreement or the beginning of any work under this Agreement;
- (2) Maintain and provide evidence of similar insurance for at least three (3) years following project completion, including the requirement of adding all additional insureds; and
- (3) If insurance is cancelled or non-renewed, and not replaced with another claims-made policy form with a Retroactive Date prior to the Agreement effective date, CONSULTANT shall purchase "extended reporting" coverage for a minimum of three (3) years after completion of the work.

F. Failure to Maintain Insurance. All insurance specified above shall remain in force until all work or services to be performed are satisfactorily completed, all of CONSULTANT's personnel, subcontractors, and equipment have been removed from MTC's property, and the work or services have been formally accepted. CONSULTANT must notify MTC if any of the above required coverages are non-renewed or cancelled. The failure to procure or maintain required insurance and/or an adequately funded self-insurance program will constitute a material breach of this Agreement.

G. Certificates of Insurance. Prior to commencement of any work hereunder, CONSULTANT shall deliver to MTC Certificates of Insurance verifying the aforementioned coverages. Such certificates shall make reference to all provisions and endorsements referred to above and shall be signed on behalf of the insurer by an authorized representative thereof.

H. Disclaimer. The foregoing requirements as to the types and limits of insurance coverage to be maintained by CONSULTANT are not intended to and shall not in any manner limit or qualify the liabilities and obligations otherwise assumed by CONSULTANT pursuant hereto, including, but not limited to, liability assumed pursuant to Article 9 of this Agreement.

2. NOT USED

3. ADDITIONAL INSURED

The following entities are to be named as Additional Insureds under applicable sections of this Attachment E and as MTC Indemnified Parties, pursuant to Article 9 of the Agreement.

- Metropolitan Transportation Commission (MTC)
- Federal Highway Administration (FHWA)
- California Department of Transportation (Caltrans)
- All Client Jurisdictions

ATTACHMENT F
Subconsultant List

	<u>Name/Address of Subconsultant</u>	<u>Amount of Subcontract</u>	<u>Description of Work</u>
1.			
2.			
3.			
4.			
5.			
6.			

ATTACHMENT G
Not Used

ATTACHMENT H

Federally Required Clauses

1. EQUAL EMPLOYMENT OPPORTUNITY

In accordance with Title VI of the Civil Rights Act, as amended (42 U.S.C. § 2000d); Section 303 of the Age Discrimination Act of 1975, as amended (42 U.S.C. § 6102); Section 202 of the Americans with Disabilities Act of 1990 (42 U.S.C. § 12132); and 49 U.S.C. § 5332 for FTA-funded projects CONSULTANT agrees that it will not, on the grounds of race, religious creed, color, national origin, age, physical disability, sex, discriminate or permit discrimination against any employee or applicant for employment.

2. DISADVANTAGED BUSINESS ENTERPRISE (DBE) POLICY

A. This Agreement is subject to 49 CFR, Part 26 entitled “Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs.” Proposers who obtain DBE participation on this contract will assist Caltrans in meeting its federally mandated statewide overall DBE goal.

B. If the contract has a DBE goal, CONSULTANT must meet the DBE goal by committing DBE participation or document a good faith effort to meet the goal. If a DBE subconsultant is unable to perform, CONSULTANT must make a good faith effort to replace him/her with another DBE subconsultant, if the goal is not otherwise met.

C. DBEs and other small businesses, as defined in 49 CFR, Part 26 are encouraged to participate in the performance of agreements financed in whole or in part with federal funds. CONSULTANT or subconsultant shall not discriminate on the basis of race, color, national origin, or sex in the performance of this Agreement. CONSULTANT shall carry out applicable requirements of 49 CFR, Part 26 in the award and administration of US DOT- assisted agreements. Failure by CONSULTANT to carry out these requirements is a material breach of this Agreement, which may result in the termination of this Agreement or such other remedy as the local agency deems appropriate.

D. Any subcontract entered into as a result of this Agreement shall contain all of the provisions of this section.

2.1. Performance of DBE Consultant and other DBE Subconsultants/Suppliers

A. A DBE performs a commercially useful function when it is responsible for execution of the work of the Agreement and is carrying out its responsibilities by actually performing, managing, and supervising the work involved. To perform a commercially useful function, the DBE must also be responsible with respect to materials and supplies used on the Agreement, for negotiating price, determining quality and quantity, ordering the material, and installing (where applicable) and paying for the material itself. To determine whether a DBE is performing a commercially useful function, evaluate the amount of work subcontracted, industry practices; whether the amount the firm is to be paid under the Agreement is commensurate with the work it is actually performing; and other relevant factors.

B. A DBE does not perform a commercially useful function if its role is limited to that of an extra participant in a transaction, Agreement, or project through which funds are passed in order to obtain the appearance of DBE participation. In determining whether a DBE is such an extra participant, examine similar transactions, particularly those in which DBEs do not participate.

C. If a DBE does not perform or exercise responsibility for at least 30 percent of the total cost of its Agreement with its own work force, or the DBE subcontracts a greater portion of the work of the Agreement than would be expected on the basis of normal industry practice for the type of work involved, it will be presumed that it is not performing a commercially useful function.

2.2. Prompt Payment of Funds Withheld to Subcontractors

A. In the event that MTC withholds a portion of the payment from CONSULTANT as retainage, CONSULTANT, or subconsultant (if applicable), shall return all monies withheld in retention from a subconsultant within 30 days after receiving payment for work satisfactorily completed and accepted including incremental acceptances of portions of the contract work by the agency. Federal law (49 CFR26.29) requires that any delay or postponement of payment over 30 days may take place only for good cause and with the agency's prior written approval. Any violation of this provision shall subject the violating prime consultant or subconsultant to the penalties, sanctions and other remedies specified in Section 7108.5 of the Business and Professions Code. These requirements shall not be construed to limit or impair any contractual, administrative, or judicial remedies, otherwise available to the prime consultant or subconsultant in the event of a dispute involving late payment or nonpayment by the prime contractor, deficient

subconsultant performance, or noncompliance by a subcontractor. This provision applies to both DBE and non-DBE prime CONSULTANT and subconsultants.

B. Any subcontract entered into as a result of this Agreement shall contain all of the provisions of this section.

2.3. DBE Records

A. CONSULTANT shall maintain records of materials purchased and/or supplied from all subcontracts entered into with certified DBEs. The records shall show the name and business address of each DBE or vendor and the total dollar amount actually paid each DBE or vendor, regardless of tier. The records shall show the date of payment and the total dollar figure paid to all firms. DBE prime CONSULTANTS shall also show the date of work performed by their own forces along with the corresponding dollar value of the work.

B. Upon completion of the Agreement, a summary of these records shall be prepared and submitted on the form attached as Attachment H-4, "Final Report-Utilization of Disadvantaged Business Enterprise (DBE), First-Tier Subcontractors," CEM-2402F (Exhibit 17-F, Chapter 17, of the LAPM), attached hereto and incorporated herein by this reference, certified correct by CONSULTANT or CONSULTANT's authorized representative and shall be furnished to the Project Manager with the final invoice. Failure to provide the summary of DBE payments with the final invoice will result in 25% of the dollar value of the invoice being withheld from payment until the form is submitted. The amount will be returned to CONSULTANT when a satisfactory "Final Report-Utilization of Disadvantaged Business Enterprises (DBE), First-Tier Subcontractors" is submitted to the Contract Manager.

2.4. DBE Certification and Decertification Status

If a DBE subconsultant is decertified during the life of the Agreement, the decertified subconsultant shall notify CONSULTANT in writing with the date of decertification. If a subconsultant becomes a certified DBE during the life of the Agreement, the subconsultant shall notify CONSULTANT in writing with the date of certification. Any changes should be reported to the Agency's Contract Manager within 30 days.

3. TITLE VI OF THE CIVIL RIGHTS ACT OF 1964

CONSULTANT agrees to comply with all the requirements imposed by Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000(d)) and the regulations of the Department of Transportation issued thereunder (49 CFR Part 21).

4. ACCESS REQUIREMENTS FOR INDIVIDUALS WITH DISABILITIES

CONSULTANT agrees to comply with all applicable requirements of the Americans with Disabilities Act of 1990 (ADA), 42 U.S.C. § 12101 et seq.; Section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 794; Section 16 of the Federal Transit Act, as amended, 49 U.S.C. § 5310(f); and their implementing regulations.

5. STATE ENERGY CONSERVATION PLAN

CONSULTANT shall comply with all mandatory standards and policies relating to energy efficiency that are contained in the State energy conservation plan issued in compliance with the Energy Policy and Conservation Act (42 U.S.C. § 6321).

6. ALLOWABILITY OF COSTS

CONSULTANT shall comply with the cost principles (as applicable) in Office of Management and Budget (OMB) Circulars A-87, or A-122 or 48 Code of Federal Regulations Chapter 1 Part 31, or 49 Code of Federal Regulations Part 18.

7. RELEASE OF FUNDS WITHHELD FROM SUBCONTRACTORS

CONSULTANT shall pay its subcontractors within ten (10) calendar days from receipt of each payment made to the Contractor by MTC.

8. LICENSE FOR FEDERAL GOVERNMENT PURPOSES

FTA/FHWA reserves a royalty-free, non-exclusive and irrevocable license to reproduce, publish or otherwise use, and to authorize others to use, for federal government purposes: (a) the copyright in any work developed under this Agreement; and (b) any rights of copyright to which MTC or CONSULTANT purchases ownership under this Agreement.

9. IDENTIFICATION OF DOCUMENTS

All reports and other documents completed as part of this Agreement shall carry the following notation on the front cover or title page:

"The preparation of this report has been financed in part by grants from the: Federal Highway Administration, U.S. Department of Transportation. The contents of this report do not necessarily reflect the official views or policy of the U.S. Department of Transportation."

10. RECORDS

CONSULTANT agrees to establish and maintain an accounting system conforming to Generally Accepted Accounting Principles (GAAP) that is adequate to accumulate and segregate reasonable, allowable, and allocable project costs. CONSULTANT

further agrees to keep all records pertaining to the project being funded for audit purposes for a minimum of three (3) years from submission of final expenditure report; four (4) years following the fiscal year of last expenditure under the Agreement; or until completion of any litigation, claim or audit, whichever is longer. Copies of CONSULTANT's audits, if any, performed during the course of Project development and at Project completion shall be forwarded to MTC no later than one hundred eighty (180) days after fiscal year end close.

11. AUDITS

CONSULTANT further agrees to include in all its subcontracts hereunder a provision to the effect that the subcontractor agrees that MTC, or any of its duly authorized representatives shall have access to and the right to examine any directly pertinent books, documents, papers, and records of such subcontractor for the term specified above. The term "subcontract" as used in this clause excludes agreements not exceeding \$25,000.

CONSULTANT agrees to grant MTC, the U.S. DOT, FTA or FHWA, as applicable, the Comptroller General of the United States, the State of California, and their authorized representatives access to the CONSULTANT's books, records, accounts, and any and all work products, materials, and other data relevant to this Agreement, for the purpose of making an audit, examination, excerpt and transcription during the term of this Agreement and for the period specified in Article 14. CONSULTANT shall in no event dispose of, destroy, alter, or mutilate said books, records, accounts, work products, materials and data for that period of time. If, as a result of any audit, it is determined by the auditor that reimbursement of any costs including profit or fee under this Agreement was in excess of that represented and relied upon during price negotiations or represented as a basis for payment, the CONSULTANT agrees to reimburse MTC for those costs within sixty (60) days of written notification by MTC.

CONSULTANT further agrees to include in all its subcontracts hereunder exceeding \$25,000 a provision to the effect that the subcontractor agrees that MTC the U.S. DOT, FTA or FHWA, as applicable, the Comptroller General of the United States, the State of California, and their authorized representatives shall have access to and the right to examine any directly pertinent books, documents, papers, and records of such subcontractor for the term specified above.

12. FLY AMERICA REQUIREMENTS.

CONSULTANT agrees to comply with 49 U.S.C. 40118 (the "Fly America Act") in accordance with the General Services Administration's regulations at 41 CFR Part 301 - 10, which provide that recipients and subrecipients of Federal funds and their consultants are required to use U.S. flag air carriers for U.S. Government-financed international air travel and

transportation of their personal effects or property to the extent such service is available, unless travel by foreign air carrier is a matter of necessity as defined by the Fly America Act.

CONSULTANT shall submit, if a foreign air carrier was used, an appropriate certification or memorandum adequately explaining why service by a U.S. flag air carrier was not available or why it was necessary to use a foreign air carrier and shall, in any event, provide a certificate of compliance with the Fly America requirements, if used. CONSULTANT agrees to include the requirements of this Section in all subcontracts that may involve international air transportation.

13. ENERGY CONSERVATION.

CONSULTANT agrees to comply with mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Federal Energy Policy and Conservation Act, 49 U.S.C. §§ 6321 *et seq.*

14. PROGRAM FRAUD AND FALSE OR FRAUDULENT STATEMENTS AND RELATED ACTS.

- a. CONSULTANT acknowledges that the provisions of the Program Fraud Civil Remedies Act of 1986, as amended, 31 U.S.C. § 3801 *et seq.* and U.S. DOT regulations, “Program Fraud Civil Remedies,” 49 CFR Part 31, apply to its actions pertaining to this Project. Upon execution of the underlying contract, CONSULTANT certifies or affirms the truthfulness and accuracy of any statement it has made, it makes, it may make, or causes to be made, pertaining to the underlying contract or the FTA assisted project for which this Agreement work is being performed. In addition to other penalties that may be applicable, the Consultant further acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification, the Federal Government reserves the right to impose the penalties of the Program Fraud Civil Remedies Act of 1986 on CONSULTANT to the extent the Federal Government deems appropriate.
- b. CONSULTANT also acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification to the Federal Government under a contract connected with a project that is financed in whole or in part with Federal assistance originally awarded by FTA under the authority of 49 U.S.C. § 5307, the Government reserves the right to impose the penalties of 18 U.S.C. § 1001 and 49 U.S.C. § 5307(n)(1) on CONSULTANT, to the extent the Federal Government deems appropriate.
- c. CONSULTANT agrees to include the above two clauses in each subcontract financed in whole or in part with Federal assistance provided by FTA. It is further agreed that the clauses shall not be modified, except to identify the subcontractor/subconsultant who will be subject to the provisions.

15. DEBARMENT

CONSULTANT certifies that neither it, nor any of its participants, principals or subcontractors is or has been debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions, as they are defined in 49 CFR Part 29, by any Federal agency or department.

16. CLEAN AIR AND WATER POLLUTION ACTS

CONSULTANT agrees to comply with the applicable requirements of all standards, orders, or requirements issued under the Clean Air Act (42 U.S.C. § 7501 *et seq.*), the Clean Water Act (33 U.S.C. § 1251 *et seq.*), Executive Order 11738, and Environmental Protection Agency regulations (40 CFR Part 15).

17. LOBBYING

CONSULTANT agrees to comply with the restrictions on the use of federal funds for lobbying activities set forth in 31 United States Code §1352 and 49 C.F.R. Part 20.

ATTACHMENT H-1***Exhibit 10-01: Local Agency Consultant DBE Commitment***
(Inclusive of all DBEs at time of proposal)

NOTE: Please refer to instructions on the reverse side of this form.

Consultant to Complete this Section			
1. Local Agency Name: _____ Metropolitan Transportation Commission (MTC) _____ 2. Project Location: _____ San Francisco Bay Area _____ 3. Project Description: _____ Program for Arterial System Synchronization (PASS) _____ 4. Consultant Name: _____ 5. Contract DBE Goal %: _____ 6% _____			
DBE Commitment Information			
6. Description of Services to be Provided	7. DBE Firm Contact Information	8. DBE Cert. Number	9. DBE %
Local Agency to Complete this Section 16. Local Agency Contract Number: _____ Program for Arterial System Synchronization (PASS) _____ 17. Federal-aid Project Number: _____ CML6084(160) _____ 18. Proposed Contract Execution Date: _____ July 2015 _____ Local Agency certifies that all DBE certifications are valid and the information on this form is complete and accurate: _____ 19. Local Agency Representative Name (Print) _____ 20. Local Agency Representative Signature 21. Date _____ 22. Local Agency Representative Title 23. (Area Code) Tel. No.		10. Total % Claimed _____ % _____ _____ 11. Preparer's Signature _____ 12. Preparer's Name (Print) _____ 13. Preparer's Title _____ 14. Date 15. (Area Code) Tel. No.	

Distribution: (1) Original – Submit with Award Package
(2) Copy – Local Agency files

INSTRUCTIONS - LOCAL AGENCY CONSULTANT DBE COMMITMENT**Consultant Section**

The Consultant shall:

1. **Local Agency Name** – Enter the name of the local or regional agency that is funding the contract.
2. **Project Location** - Enter the project location as it appears on the project advertisement.
3. **Project Description** - Enter the project description as it appears on the project advertisement (Bridge Rehab, Seismic Rehab, Overlay, Widening, etc)..
4. **Consultant Name** - Enter the consultant's firm name.
5. **Contract DBE Goal %** - Enter the contract DBE goal percentage, as it was reported on the Exhibit 10-I form. See LAPM Chapter 10.
6. **Description of Services to be Provided** - Enter item of work description of services to be provided. Indicate all work to be performed by DBEs including work performed by the prime consultant's own forces, if the prime is a DBE. If 100% of the item is not to be performed or furnished by the DBE, describe the exact portion to be performed or furnished by the DBE. See LAPM Chapter 9 to determine how to count the participation of DBE firms.
7. **DBE Firm Contact Information** - Enter the name and telephone number of all DBE subcontracted consultants. Also, enter the prime consultant's name and telephone number, if the prime is a DBE.
8. **DBE Cert. Number** - Enter the DBEs Certification Identification Number. All DBEs must be certified on the date bids are opened. (DBE subcontracted consultants should notify the prime consultant in writing with the date of the decertification if their status should change during the course of the contract.)
9. **DBE %** - Percent participation of work to be performed or service provided by a DBE. Include the prime consultant if the prime is a DBE. See LAPM Chapter 9 for how to count full/partial participation.
10. **Total % Claimed** – Enter the total participation claimed. If the Total % Claimed is less than item “6. Contract DBE Goal”, a Good Faith Effort (GFE) is required.
11. **Preparer's Signature** – The person completing this section of the form for the consultant's firm must sign their name.
12. **Preparer's Name (Print)** – Clearly enter the name of the person signing this section of the form for the consultant.
13. **Preparer's Title** - Enter the position/title of the person signing this section of the form for the consultant.
14. **Date** - Enter the date this section of the form is signed by the preparer.
15. **(Area Code) Tel. No.** - Enter the area code and telephone number of the person signing this section of the form for the consultant.

Local Agency Section:

The Local Agency representative shall:

16. **Local Agency Contract Number** - Enter the Local Agency Contract Number.
17. **Federal-Aid Project Number** - Enter the Federal-Aid Project Number.
18. **Contract Execution Date** - Enter the date the contract was executed and Notice to Proceed issued. See LAPM Chapter 10, page 23.
19. **Local Agency Representative Name (Print)** - Clearly enter the name of the person completing this section.
20. **Local Agency Representative Signature** - The person completing this section of the form for the Local Agency must sign their name to certify that the information in this and the Consultant Section of this form is complete and accurate.
21. **Date** - Enter the date the Local Agency Representative signs the form.
22. **Local Agency Representative Title** - Enter the position/title of the person signing this section of the form.
23. **(Area Code) Tel. No.** - Enter the area code and telephone number of the Local Agency representative signing this section of the form.

ATTACHMENT H-2***Exhibit 10-02: Local Agency Consultant DBE Information***

(Inclusive of all DBEs listed at bid proposal)

NOTE: Please refer to instructions on the reverse side of this form.

Consultant to Complete this Section			
1. Local Agency Name: <u>Metropolitan Transportation Commission (MTC)</u> 2. Project Location: <u>San Francisco Bay Area</u> 3. Project Description: <u>Program for Arterial System Synchronization (PASS)</u> 4. Total Contract Award Amount: \$ _____ 5. Consultant Name: _____ 6. Contract DBE Goal %: <u>6%</u> 7. Total Dollar Amount for <u>all</u> Subcontractors: \$ _____ 8. Total Number of <u>all</u> Subcontractors: _____			
Award DBE Information			
9. Description of Services to be Provided	10. DBE Firm Contact Information	11. DBE Cert. Number	12. DBE Dollar Amount
Local Agency to Complete this Section		13. Total Dollars Claimed	\$ _____
20. Local Agency Contract Number: <u>Program for Arterial System Synchronization (PASS)</u> 21. Federal-aid Project Number: <u>CML6084(160)</u> 22. Contract Execution Date: <u>July 2015</u> Local Agency certifies that all DBE certifications are valid and the information on this form is complete and accurate: <u>Ryan DeCoud</u> 23. Local Agency Representative Name (Print) _____ 24. Local Agency Representative Signature _____ 25. Date _____ 26. Local Agency Representative Title: <u>Contract Specialist</u> 27. (Area Code) Tel. No.: <u>510-817-5784</u>		14. Total % Claimed	_____ %
Caltrans to Complete this Section		15. Preparer's Signature	
Caltrans District Local Assistance Engineer (DLAE) certifies that this form has been reviewed for completeness:			
28. DLAE Name (Print)	29. DLAE Signature	30. Date	16. Preparer's Name (Print)
			17. Preparer's Title
		18. Date	19. (Area Code) Tel. No.

Distribution: (1) Copy – Email a copy to the Caltrans District Local Assistance Engineer (DLAE) within 30 days of contract award. Failure to send a copy to the DLAE within 30 days of contract award may result in delay of payment.
(2) Copy – Include in award package sent to Caltrans DLAE (3) Original – Local agency files

INSTRUCTIONS - LOCAL AGENCY CONSULTANT DBE INFORMATION**Consultant Section***Consultant shall:*

1. **Local Agency Name** – Enter the name of the local or regional agency that is funding the contract.
2. **Project Location** - Enter the project location as it appears on the project advertisement.
3. **Project Description** - Enter the project description as it appears on the project advertisement (Bridge Rehab, Seismic Rehab, Overlay, Widening, etc).
4. **Total Contract Award Amount** - Enter the total contract award dollar amount for the prime consultant.
5. **Consultant Name** - Enter the consultant's firm name.
6. **Contract DBE Goal %** - Enter the contract DBE goal percentage, as it was reported on the Exhibit 10-I form. See LAPM Chapter 10.
7. **Total Dollar Amount for all Subcontractors** – Enter the total dollar amount for all subcontracted consultants. SUM = (DBE's + all Non-DBE's). Do **not** include the prime consultant information in this count.
8. **Total number of all subcontractors** – Enter the total number of all subcontracted consultants. SUM = (DBE's + all Non-DBE's). Do **not** include the prime consultant information in this count.
9. **Description of Services to be Provided** - Enter item of work description of services to be provided. Indicate all work to be performed by DBEs including work performed by the prime consultant's own forces, if the prime is a DBE. If 100% of the item is not to be performed or furnished by the DBE, describe the exact portion to be performed or furnished by the DBE. See LAPM Chapter 9 to determine how to count the participation of DBE firms.
10. **DBE Firm Contact Information** - Enter the name and telephone number of all DBE subcontracted consultants. Also, enter the prime consultant's name and telephone number, if the prime is a DBE.
11. **DBE Cert. Number** - Enter the DBE's Certification Identification Number. All DBEs must be certified on the date bids are opened. (DBE subcontracted consultants should notify the prime consultant in writing with the date of the decertification if their status should change during the course of the contract.)
12. **DBE Dollar Amount** - Enter the subcontracted dollar amount of the work to be performed or service to be provided. Include the prime consultant if the prime is a DBE, and include DBEs that are not identified as subcontractors on the Exhibit 10-O1 form. See LAPM Chapter 9 for how to count full/partial participation.
13. **Total Dollars Claimed** – Enter the total dollar amounts for columns 12 and 13.
14. **Total % Claimed** – Enter the total participation claimed for columns 12 and 13. SUM = (item "14. Total Participation Dollars Claimed" divided by item "4. Total Contract Award Amount"). If the Total % Claimed is less than item "6. Contract DBE Goal", a Good Faith Effort (GFE) is required.
15. **Preparer's Signature** – The person completing this section of the form for the consultant's firm must sign their name.
16. **Preparer's Name (Print)** – Clearly enter the name of the person signing this section of the form for the consultant.
17. **Preparer's Title** - Enter the position/title of the person signing this section of the form for the consultant.
18. **Date** - Enter the date this section of the form is signed by the preparer.
19. **(Area Code) Tel. No.** - Enter the area code and telephone number of the person signing this section of the form for the consultant.

Local Agency Section:*The Local Agency representative shall:*

20. **Local Agency Contract Number** - Enter the Local Agency Contract Number.
21. **Federal-Aid Project Number** - Enter the Federal-Aid Project Number.
22. **Contract Execution Date** - Enter the date the contract was executed and Notice to Proceed issued. See LAPM Chapter 10, page 23.
23. **Local Agency Representative Name (Print)** - Clearly enter the name of the person completing this section.
24. **Local Agency Representative Signature** - The person completing this section of the form for the Local Agency must sign their name to certify that the information in this and the Consultant Section of this form is complete and accurate.
25. **Date** - Enter the date the Local Agency Representative signs the form.
26. **Local Agency Representative Title** - Enter the position/title of the person signing this section of the form.
27. **(Area Code) Tel. No.** - Enter the area code and telephone number of the Local Agency representative signing this section of the form.

Caltrans Section:*Caltrans District Local Assistance Engineer (DLAE) shall:*

28. **DLAE Name (Print)** – Clearly enter the name of the DLAE.
29. **DLAE Signature** – DLAE must sign this section of the form to certify that it has been reviewed for completeness.
30. **Date** - Enter the date that the DLAE signs this section the form.

ATTACHMENT H-3**Monthly Utilization of Disadvantaged Business Enterprises (DBE) First-Tier Subcontracts Form**

Project Name			Agency	Contract Term:	NTE Amount:	Federal Aid #:
Program for Arterial System Synchronization (PASS)			Metropolitan Transportation Commission			CML6084(160)
Prime Contractor	Contract Name	Address	City, State, Zip Code	Email	Phone	Fax

Item #	Description of Work Performed and Material Provided	Company Name, Business Address, Contact Name and Information	DBE Certification Number	Contract Payments		Date Work Completed	Date of Payment	Year to Date Payments
				Non-DBE	DBE			
				\$1	\$1			\$1
				\$1	\$1			\$1
				\$1	\$1			\$1
				\$1	\$1			\$1
				\$1	\$1			\$1
				\$1	\$1			\$1
				\$1	\$1			\$1
				\$1	\$1			\$1
				\$1	\$1			\$1
Original DBE Commitment			Total: highlight + F9 = math	\$8.00	\$8.00			

BA-Black American
 APA-Asian Pacific American

NA-Native American
 W-Women

ATTACHMENT H-4, Final Report-Utilization of Disadvantaged Business Enterprises (DBE) First-Tier Subcontracts Form
Local Assistance Procedures Manual **EXHIBIT 17-F**
Final Report-Utilization of Disadvantaged Business Enterprises (DBE), First-Tier Subcontractors

STATE OF CALIFORNIA - DEPARTMENT OF TRANSPORTATION

**FINAL REPORT-UTILIZATION OF DISADVANTAGED BUSINESS ENTERPRISES
(DBE), FIRST-TIER SUBCONTRACTORS**

ADA Notice

For individuals with sensory disabilities, this document is available in alternate formats. For information call (916) 654-6410 or TDD (916) 654-3880 or write Records and Forms Management, 1120 N Street, MS-89, Sacramento, CA 95814

CEM-2402F (REV 02/2008)

CONTRACT NUMBER		COUNTY	ROUTE	POST MILES	FEDERAL AID PROJECT NO.	ADMINISTERING AGENCY		CONTRACT COMPLETION DATE	
PRIME CONTRACTOR				BUSINESS ADDRESS				ESTIMATED CONTRACT AMOUNT\$	
ITEM NO.	DESCRIPTION OF WORK PERFORMED AND MATERIAL PROVIDED	COMPANY NAME AND BUSINESS ADDRESS	DBE CERT. NUMBER	CONTRACT PAYMENTS			DATE OF FINAL PAYMENT		
				NON-DBE	DBE	DATE WORK COMPLETE			
				\$	\$				
				\$	\$				
				\$	\$				
				\$	\$				
				\$	\$				
				\$	\$				
				\$	\$				
				\$	\$				
				\$	\$				
				\$	\$				
ORIGINAL COMMITMENT \$ DBE			TOTAL	\$	\$				
<p>List all First-Tier Subcontractors, Disadvantaged Business Enterprises (DBEs) regardless of tier, whether or not the firms were originally listed for goal credit. If actual DBE utilization (or item of work) was different than that approved at time of award, provide comments on back of form. List actual amount paid to each entity.</p>									

I CERTIFY THAT THE ABOVE INFORMATION IS COMPLETE AND CORRECT

CONTRACTOR REPRESENTATIVE'S SIGNATURE		BUSINESS PHONE NUMBER	DATE
TO THE BEST OF MY INFORMATION AND BELIEF, THE ABOVE INFORMATION IS COMPLETE AND CORRECT			
RESIDENT ENGINEER'S SIGNATURE		BUSINESS PHONE NUMBER	DATE

Copy Distribution-Caltrans contracts:

Original - District Construction**Copy**- Business Enterprise Program**Copy**- Contractor**Copy** Resident Engineer

Copy Distribution-Local Agency contracts:

Original - District Local Assistance Engineer
(submitted with the Report of Expenditure)**Copy**- District Local Assistance Engineer**Copy**- Local Agency file

**FINAL REPORT – UTILIZATION OF
DISADVANTAGED BUSINESS
ENTERPRISES (DBE), FIRST-TIER
SUBCONTRACTORS
CEM 2402(F) (Rev. 02/2008)**

The form requires specific information regarding the construction project: Contract Number, County, Route, Post Miles, Federal-aid Project No., the Administering Agency, the Contract Completion Date and the Estimated Contract Amount. It requires the prime contractor name and business address. The focus of the form is to describe who did what by contract item number and descriptions, asking for specific dollar values of item work completed broken down by subcontractors who performed the work both DBE and non-DBE work forces. DBE prime contractors are required to show the date of work performed by their own forces along with the corresponding dollar value of work.

The form has a column to enter the Contract Item No. (or Item No's) and description of work performed or materials provided, as well as a column for the subcontractor name and business address. For those firms who are DBE, there is a column to enter their DBE Certification Number. The DBE should provide their certification number to the contractor and notify the contractor in writing with the date of the decertification if their status should change during the course of the project.

The form has six columns for the dollar value to be entered for the item work performed by the subcontractor.

The Non-DBE column is used to enter the dollar value of work performed for firms who are not certified DBE.

The decision of which column to be used for entering the DBE dollar value is based on what program(s) status the firm is certified. This program status is determined by the California Unified Certification Program by ethnicity, gender, ownership, and control issues at time of certification. To confirm the certification status and program status, access the Department of Transportation Civil Rights web site at: <http://www.dot.ca.gov/hq/bep> or by calling (916) 324-1700 or the toll free number at (888) 810-6346.

Based on this DBE Program status, the following table depicts which column to be used:

DBE Program Status	Column to be used
If program status shows DBE only with no other programs listed	DBE

If a contractor performing work as a DBE on the project becomes decertified and still performs work after their decertification date, enter the total dollar value performed by this contractor under the appropriate DBE identification column.

If a contractor performing work as a non-DBE on the project becomes certified as a DBE, enter the dollar value of all work performed after certification as a DBE under the appropriate identification column.

Enter the total of each of the six columns in Form CEM-2402(F).

Any changes to DBE certification must also be submitted on Form-CEM 2403(F).

Enter the Date Work Completed as well as the Date of Final Payment (the date when the prime contractor made the “final payment” to the subcontractor for the portion of work listed as being completed).

The contractor and the resident engineer sign and date the form indicating that the information provided is complete and correct.

ATTACHMENT I
State Required Clauses

ATTACHMENT I-1**FAIR EMPLOYMENT PRACTICES ADDENDUM**

1. In the performance of this Agreement, CONSULTANT shall not discriminate against any employee for employment because of race, color, sex, sexual orientation, religion, ancestry or national origin, physical disability, medical condition, marital status, political affiliation, family and medical care leave, pregnancy leave, or disability leave. CONSULTANT shall take affirmative action to ensure that employees are treated during employment without regard to their race, sex, sexual orientation, color, religion, ancestry, or national origin, physical disability, medical condition, marital status, political affiliation, family and medical care leave, pregnancy leave, or disability leave. Such action shall include, but not be limited to, the following: employment; upgrading; demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. CONSULTANT shall post in conspicuous places, available to employees for employment, notices to be provided by STATE setting forth the provisions of this Fair Employment section.

2. CONSULTANT, its contractor(s) and all subcontractors shall comply with the provisions of the Fair Employment and Housing Act (Government Code Section 12900 et seq.), and the applicable regulations promulgated thereunder (California code of Regulations, Title 2, Section 7285.0 et seq.). The applicable regulations of the Fair Employment and Housing Commission implementing Government Code, Section 12900(a-f), set forth in Chapter 5 of Division 4 of Title 2 of the California Code of Regulations are incorporated into this Agreement by reference and made a part hereof as if set forth in full. Each of the CONSULTANT'S contractors and all subcontractors shall give written notice of their obligations under this clause to labor organizations with which they have a collective bargaining or other agreements as appropriate.

3. CONSULTANT shall include the nondiscrimination and compliance provisions of this clause in all contracts and subcontracts to perform work under this Agreement.

4. CONSULTANT shall permit access to the records of employment, employment advertisements, application forms, and other pertinent data and records by STATE, the State Fair Employment and Housing Commission, or any other agency of the State of California designated by STATE, for the purposes of investigation to ascertain compliance with the Fair Employment section of this Agreement.

5. Remedies for Willful Violation:

(a) STATE may determine a willful violation of the Fair Employment provision to have occurred upon receipt of a final judgment to that effect from a court in an action to which CONSULTANT was a party, or upon receipt of a written notice from the Fair Employment and Housing Commission that it has investigated and determined that CONSULTANT has violated the Fair Employment Practices Act and had issued an order under Labor Code Section 1426 which has become final or has obtained an injunction under Labor Code Section 1429.

(b) For willful violation of this Fair Employment Provision, STATE shall have the right to terminate this Agreement either in whole or in part, and any loss or damage sustained by STATE in securing the goods or services thereunder shall be borne and paid for by CONSULTANT and by the surety under the performance bond, if any, and STATE may deduct from any moneys due or thereafter may become due to CONSULTANT, the difference between the price named in the Agreement and the actual cost thereof to STATE to cure CONSULTANT's breach of this Agreement.

ATTACHMENT I-2**NONDISCRIMINATION ASSURANCES**

CONSULTANT HEREBY AGREES THAT, as a condition to receiving any federal financial assistance from the STATE, acting for the U.S. Department of Transportation, it will comply with Title VI of the Civil Rights Act of 1964, 78 Stat. 252, 42 U.S.C. 2000d-42 U.S.C. 2000d-4 (hereinafter referred to as the ACT), and all requirements imposed by or pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, “Nondiscrimination in Federally-Assisted Programs of the Department of Transportation - Effectuation of Title VI of the Civil Rights Act of 1964” (hereinafter referred to as the REGULATIONS), the Federal-aid Highway Act of 1973, and other pertinent directives, to the end that in accordance with the ACT, REGULATIONS, and other pertinent directives, no person in the United States shall, on the grounds of race, color, sex, national origin, religion, age or disability, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity for which CONSULTANT receives federal financial assistance from the Federal Department of Transportation. CONSULTANT HEREBY GIVES ASSURANCE THAT CONSULTANT shall promptly take any measures necessary to effectuate this agreement. This assurance is required by subsection 21.7(a) (1) of the REGULATIONS.

More specifically, and without limiting the above general assurance, CONSULTANT hereby gives the following specific assurances with respect to its federal-aid Program:

1. That CONSULTANT agrees that each “program” and each “facility” as defined in subsections 21.23 (e) and 21.23 (b) of the REGULATIONS, will be (with regard to a “program”) conducted, or will be (with regard to a “facility”) operated in compliance with all requirements imposed by, or pursuant to, the REGULATIONS.
2. That CONSULTANT shall insert the following notification in all solicitations for bids for work or material subject to the REGULATIONS made in connection with the federal-aid Program and, in adapted form, in all proposals for negotiated agreements: CONSULTANT hereby notifies all bidders that it will affirmatively insure that in any agreement entered into pursuant to this advertisement, minority business enterprises will be afforded full opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color, sex, national origin, religion, age, or disability in consideration for an award.
3. That CONSULTANT shall insert the clauses of Appendix A of this assurance in every agreement subject to the ACT and the REGULATIONS.
4. That the clauses of Appendix B of this Assurance shall be included as a covenant running with the land, in any deed affecting a transfer of real property, structures, or improvements thereon, or interest therein.

5. That where CONSULTANT receives federal financial assistance to construct a facility, or part of a facility, the Assurance shall extend to the entire facility and facilities operated in connection therewith.

6. That where CONSULTANT receives federal financial assistance in the form, or for the acquisition, of real property or an interest in real property, the Assurance shall extend to rights to space on, over, or under such property.

7. That CONSULTANT shall include the appropriate clauses set forth in Appendix C and D of this Assurance, as a covenant running with the land, in any future deeds, leases, permits, licenses, and similar agreements entered into by the CONSULTANT with other parties:

Appendix C;

(a) for the subsequent transfer of real property acquired or improved under the federal-aid Program; and

Appendix D;

(b) for the construction or use of or access to space on, over, or under real property acquired, or improved under the federal-aid Program.

8. That this assurance obligates CONSULTANT for the period during which federal financial assistance is extended to the program, except where the federal financial assistance is to provide, or is in the form of, personal property or real property or interest therein, or structures, or improvements thereon, in which case the assurance obligates CONSULTANT or any transferee for the longer of the following periods:

(a) the period during which the property is used for a purpose for which the federal financial assistance is extended, or for another purpose involving the provision of similar services or benefits; or

(b) the period during which CONSULTANT retains ownership or possession of the property.

9. That CONSULTANT shall provide for such methods of administration for the program as are found by the U.S. Secretary of Transportation, or the official to whom he delegates specific authority, to give reasonable guarantee that CONSULTANT, other recipients, sub-grantees, applicants, sub-applicants, transferees, successors in interest, and other participants of federal financial assistance under such program will comply with all requirements imposed by, or pursuant to, the ACT, the REGULATIONS, this Assurance and the Agreement.

10. That CONSULTANT agrees that the United States and the State of California have a right to seek judicial enforcement with regard to any matter arising under the ACT, the REGULATIONS, and this Assurance.

11. CONSULTANT shall not discriminate on the basis of race, religion, age, disability, color, national origin or sex in the award and performance of any STATE assisted contract or in the

administration on its DBE Program or the requirements of 49 CFR Part 26. CONSULTANT shall take all necessary and reasonable steps under 49 CFR Part 26 to ensure non discrimination in the award and administration of STATE assisted contracts. The California Department of Transportation Disadvantaged Business Enterprise Program Implementation Agreement for Local Agencies is incorporated by reference in this Agreement. Implementation of this program is a legal obligation and failure to carry out its terms shall be treated as a violation of this agreement. Upon notification to the recipient of its failure to carry out the Implementation Agreement, STATE may impose sanctions as provided for under 49 CFR Part 26 and may, in appropriate cases, refer the matter for enforcement under 18 USC 1001 and/or the Program Fraud Civil Remedies Act of 1985 (31 USC 3801 et seq.)

THESE ASSURANCES are given in consideration of and for the purpose of obtaining any and all federal grants, loans, agreements, property, discounts or other federal financial assistance extended after the date hereof to CONSULTANT by STATE, acting for the U.S. Department of Transportation, and is binding on CONSULTANT, other recipients, subgrantees, applicants, sub-applicants, transferees, successors in interest and other participants in the federal-aid Highway Program.

APPENDIX A TO ATTACHMENT I-2

During the performance of this Agreement, CONSULTANT, for itself, its assignees and successors in interest (hereinafter collectively referred to as CONSULTANT) agrees as follows:

(1) Compliance with Regulations: CONSULTANT shall comply with the regulations relative to nondiscrimination in federally assisted programs of the Department of Transportation, Title 49, Code of Federal Regulations, Part 21, as they may be amended from time to time, (hereinafter referred to as the REGULATIONS), which are herein incorporated by reference and made a part of this agreement.

(2) Nondiscrimination: CONSULTANT, with regard to the work performed by it during the Agreement, shall not discriminate on the grounds of race, color, sex, national origin, religion, age, or disability in the selection and retention of sub-applicants, including procurements of materials and leases of equipment. CONSULTANT shall not participate either directly or indirectly in the discrimination prohibited by Section 21.5 of the REGULATIONS, including employment practices when the agreement covers a program set forth in Appendix B of the REGULATIONS.

(3) Solicitations for Sub-agreements, Including Procurements of Materials and Equipment: In all solicitations either by competitive bidding or negotiation made by CONSULTANT for work to be performed under a Sub-agreement, including procurements of materials or leases of equipment, each potential sub-applicant or supplier shall be notified by CONSULTANT of the CONSULTANT's obligations under this Agreement and the REGULATIONS relative to nondiscrimination on the grounds of race, color, or national origin.

(4) Information and Reports: CONSULTANT shall provide all information and reports required by the REGULATIONS, or directives issued pursuant thereto, and shall permit access to CONSULTANT's books, records, accounts, other sources of information, and its facilities as may be determined by STATE or FHWA to be pertinent to ascertain compliance with such REGULATIONS or directives. Where any information required of CONSULTANT is in the exclusive possession of another who fails or refuses to furnish this information, CONSULTANT shall so certify to STATE or the FHWA as appropriate, and shall set forth what efforts CONSULTANT has made to obtain the information.

(5) Sanctions for Noncompliance: In the event of CONSULTANT's noncompliance with the nondiscrimination provisions of this agreement, STATE shall impose such agreement sanctions as it or the FHWA may determine to be appropriate, including, but not limited to:

(a) withholding of payments to CONSULTANT under the Agreement within a reasonable period of time, not to exceed 90 days; and/or

(b) cancellation, termination or suspension of the Agreement, in whole or in part.

(6) Incorporation of Provisions: CONSULTANT shall include the provisions of paragraphs (1) through (6) in every sub-agreement, including procurements of materials and leases of equipment, unless exempt by the REGULATIONS, or directives issued pursuant thereto.

CONSULTANT shall take such action with respect to any sub-agreement or procurement as STATE or FHWA may direct as a means of enforcing such provisions including sanctions for noncompliance, provided, however, that, in the event CONSULTANT becomes involved in, or is threatened with, litigation with a sub-applicant or supplier as a result of such direction, CONSULTANT may request STATE enter into such litigation to protect the interests of STATE, and, in addition, CONSULTANT may request the United States to enter into such litigation to protect the interests of the United States.

APPENDIX B TO ATTACHMENT I-2

The following clauses shall be included in any and all deeds effecting or recording the transfer of PROJECT real property, structures or improvements thereon, or interest therein from the United States.

(GRANTING CLAUSE)

NOW, THEREFORE, the U.S. Department of Transportation, as authorized by law, and upon the condition that CONSULTANT shall accept title to the lands and maintain the project constructed thereon, in accordance with Title 23, United States Code, the Regulations for the Administration of federal-aid for Highways and the policies and procedures prescribed by the Federal Highway Administration of the Department of Transportation and, also in accordance with and in compliance with the Regulations pertaining to and effectuating the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252; 42 U.S.C. 2000d to 2000d-4), does hereby remise, release, quitclaim and convey unto the CONSULTANT all the right, title, and interest of the U.S. Department of Transportation in, and to, said lands described in Exhibit “A” attached hereto and made a part hereof.

(HABENDUM CLAUSE)

TO HAVE AND TO HOLD said lands and interests therein unto CONSULTANT and its successors forever, subject, however, to the covenant, conditions, restrictions and reservations herein contained as follows, which will remain in effect for the period during which the real property or structures are used for a purpose for which federal financial assistance is extended or for another purpose involving the provision of similar services or benefits and shall be binding on CONSULTANT, its successors and assigns.

CONSULTANT, in consideration of the conveyance of said lands and interests in lands, does hereby covenant and agree as a covenant running with the land for itself, its successors and assigns,

(1) that no person shall on the grounds of race, color, sex, national origin, religion, age or disability, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination with regard to any facility located wholly or in part on, over, or under such lands hereby conveyed (;) (and) *

(2) that CONSULTANT shall use the lands and interests in lands so conveyed, in compliance with all requirements imposed by or pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Non-discrimination in federally-assisted programs of the Department of Transportation - Effectuation of Title VI of the Civil Rights Act of 1964, and as said Regulations may be amended (;) and

(3) that in the event of breach of any of the above-mentioned nondiscrimination conditions, the U.S. Department of Transportation shall have a right to re-enter said lands and facilities on said land, and the above-described land and facilities shall thereon revert to and vest in and become

the absolute property of the U.S. Department of Transportation and its assigns as such interest existed prior to this deed.*

*Reverter clause and related language to be used only when it is determined that such a clause is necessary in order to effectuate the purposes of Title VI of the Civil Rights Act of 1964.

APPENDIX C TO ATTACHMENT I-2

The following clauses shall be included in any and all deeds, licenses, leases, permits, or similar instruments entered into by CONSULTANT, pursuant to the provisions of Assurance 7(a) of Attachment I-2.

The grantee (licensee, lessee, permittee, etc., as appropriate) for himself, his heirs, personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree (in the case of deeds and leases add ‘as covenant running with the land’) that in the event facilities are constructed, maintained, or otherwise operated on the said property described in this (deed, license, lease, permit, etc.) for a purpose for which a U.S. Department of Transportation program or activity is extended or for another purpose involving the provision of similar services or benefits, the (grantee, licensee, lessee, permittee, etc.), shall maintain and operate such facilities and services in compliance with all other requirements imposed pursuant to Title 49, Code of Federal Regulations, U.S. Department of Transportation, Subtitle A, Office of Secretary, Part 21, Nondiscrimination in federally-assisted programs of the Department of Transportation - Effectuation of Title VI of the Civil Rights Act of 1964, and as said Regulations may be amended.

(Include in licenses, leases, permits, etc.)*

That in the event of breach of any of the above nondiscrimination covenants, CONSULTANT shall have the right to terminate the (license, lease, permit etc.) and to re-enter and repossess said land and the facilities thereon, and hold the same as if said (license, lease, permit, etc.) had never been made or issued.

(Include in deeds)*

That in the event of breach of any of the above nondiscrimination covenants, CONSULTANT shall have the right to re-enter said land and facilities thereon, and the above described lands and facilities shall thereupon revert to and vest in and become the absolute property of CONSULTANT and its assigns.

*Reverter clause and related language to be used only when it is determined that such a clause is necessary in order to effectuate the purposes of Title VI of the Civil Rights Act of 1964.

APPENDIX D TO ATTACHMENT I-

The following shall be included in all deeds, licenses, leases, permits, or similar agreements entered into by the CONSULTANT, pursuant to the provisions of Assurance 7 (b) of Attachment I-2.

The grantee (licensee, lessee, permittee, etc., as appropriate) for himself, his personal representatives, successors in interest and assigns, as a part of the consideration hereof, does hereby covenant and agree (in the case of deeds, and leases add “as a covenant running with the land”) that:

(1) no person on the ground of race, color, sex, national origin, religion, age or disability, shall be excluded from participation in, denied the benefits of, or otherwise subjected to discrimination in the use of said facilities;

(2) that in the construction of any improvements on, over, or under such land and the furnishing of services thereon, no person on the ground of race, color, sex, national origin, religion, age or disability shall be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination; and

(3) that the (grantee, licensee, lessee, permittee, etc.,) shall use the premises in compliance with the Regulations.

(Include in licenses, leases, permits, etc.)*

That in the event of breach of any of the above nondiscrimination covenants, CONSULTANT shall have the right to terminate the (license, lease, permit, etc.) and to re-enter and repossess said land and the facilities thereon, and hold the same as if said (license, lease, permit, etc.) had never been made or issued.

(Include in deeds)*

That in the event of breach of any of the above nondiscrimination covenants, CONSULTANT shall have the right to re-enter said land and facilities thereon, and the above described lands and facilities shall thereupon revert to and vest in and become the absolute property of CONSULTANT, and its assigns.

*Reverter clause and related language to be used only when it is determined that such a clause is necessary in order to effectuate the purposes of Title VI of the Civil Rights Act of 1964.

ATTACHMENT I-3, STATE DEPARTMENT OF TRANSPORTATION REQUIREMENTS

Caltrans Non – Discrimination

A. In the performance of work undertaken pursuant to this Agreement, CONSULTANT shall not, and shall affirmatively require that its contractors shall not, unlawfully discriminate, harass or allow harassment, against any employee or applicant for employment because of sex, race, color, ancestry, religious creed, national origin, physical disability (including HIV and AIDS), medical condition (cancer), age, marital status, denial of family and medical care leave, and denial of pregnancy disability leave.

B. CONSULTANT shall ensure, and shall require that its contractors and all subcontractors and/or subrecipients shall ensure, that the evaluation and treatment of their employees and applicants for employment are free from such discrimination and harassment. CONSULTANT shall comply, and ensure that its contractors and subcontractors and/or subrecipients shall comply, with the provisions of the Fair Employment and Housing Act (Government Code, Section 12900 et seq.) and the applicable regulations promulgated thereunder (California Code of Regulations, Title 2, Section 7285.0 et seq.). The applicable regulations of the Fair Employment and Housing Commission implementing Government Code, Section 12990 (af), set forth in Chapter 5 of Division 4 of Title 2 of the California Code of Regulations, are incorporated into this Agreement by reference and made a part hereof as if set forth in full.

C. Each of CONSULTANT's contractors, subcontractors, and/or subrecipients shall give written notice of their obligations under this clause to labor organizations with which they have collective bargaining or other labor agreements. CONSULTANT shall include the non-discrimination and compliance provisions hereof in all contracts and subcontracts to perform work under this Agreement.

D. CONSULTANT shall comply with the nondiscrimination program requirements of Title VI of the Civil Rights Act of 1964. Accordingly, 49 CFR Part 21, and 23 CFR Part 200 are made applicable to this Agreement by this reference. Wherever the term "Contractor" appears therein, it shall mean CONSULTANT.

E. CONSULTANT shall permit, and shall require that its contractors, subcontractors, and subrecipients will permit, access to all records of employment, employment advertisements, application forms, and other pertinent data and records by the State Fair Employment Practices and Housing Commission or any other agency of the State of California designated by STATE to investigate compliance with these non-discrimination provisions.

APPENDIX C-1, INSURANCE REQUIREMENTS

Minimum Insurance Coverages. Consultant shall, at its own expense, obtain and maintain in effect at all times the following types of insurance against claims, damages and losses due to injuries to persons or damage to property or other losses that may arise in connection with the performance of work under this Agreement, placed with insurers with a Best's rating of A-VIII or better.

Yes (✓)	Please certify by checking the box below that required coverages will be provided within ten (10) days of MTC's notice to firm that it wishes to contract with the firm.
—	<u>Workers' Compensation Insurance</u> with Statutory limits, and Employer's Liability insurance with a limit of not less than \$1,000,000 per employee and \$1,000,000 per accident, and any and all other coverage of CONSULTANT's employees as may be required by applicable law. Such policy shall contain a Waiver of Subrogation in favor of MTC. Such Workers Compensation & Employers Liability may be waived, if and only for as long as CONSULTANT is a sole proprietor or a corporation with stock 100% owned by officers with no employees.
—	<u>Commercial General Liability Insurance</u> for Bodily Injury and Property Damage liability, covering the operations of CONSULTANT and CONSULTANT's officers, agents, and employees and with limits of liability which shall not be less than \$1,000,000 combined single limit per occurrence with a general aggregate liability of not less than \$2,000,000, and Personal & Advertising Injury liability with a limit of not less than \$1,000,000. Such policy shall contain a Waiver of Subrogation in favor of MTC. MTC, California Department of Transportation (Caltrans), Federal Highway Administration (FHWA), all Client Jurisdictions and their commissioners, directors, officers, representatives, agents and employees are to be named as additional insureds. Such insurance shall be primary and contain a Separation of Insureds Clause as respects any claims, losses or liability arising directly or indirectly from CONSULTANT's operations.
—	<u>Business Automobile Insurance</u> for all automobiles owned (if any), used or maintained by CONSULTANT and CONSULTANT's officers, agents and employees, including but not limited to owned (if any), leased (if any), non-owned and hired automobiles, with limits of liability which shall not be less than \$1,000,000 combined single limit per accident.
—	<u>Errors and Omissions Professional Liability Insurance</u> for errors and omissions and the resulting damages, including, but not limited to, economic loss to MTC and having minimum limits of \$1,000,000 per claim. The policy shall provide coverage for all work performed by CONSULTANT and any work performed or conducted by any subcontractor/consultant working for or performing services on behalf of the CONSULTANT. No contract or agreement between CONSULTANT and any subcontractor/consultant shall relieve CONSULTANT of the responsibility for providing this Errors & Omissions or Professional Liability coverage for all work performed by CONSULTANT and any subcontractor/consultant working on behalf of CONSULTANT on the project.
—	<u>Umbrella Insurance</u> in the amount of \$1,000,000 providing excess limits over Employer's Liability, Automobile Liability, and Commercial General Liability Insurance. Such umbrella coverage shall be following form to underlying coverage including all

	endorsements and additional insured requirements.
—	<p><u>Property Insurance</u> covering CONSULTANT'S own business personal property and equipment to be used in performance of this Agreement, materials or property to be purchased and/or installed on behalf of MTC (if any), and builders risk for property in the course of construction (if applicable). Coverage shall be written on a "Special Form" policy that includes theft, but excludes earthquake, with limits at least equal to the replacement cost of the property. Such policy shall contain a Waiver of Subrogation in favor of MTC.</p>
<p>Deductibles and Retentions. CONSULTANT shall be responsible for payment of any deductible or retention on CONSULTANT's policies without right of contribution from MTC. Deductible and retention provisions shall not contain any restrictions as to how or by whom the deductible or retention is paid. Any deductible or retention provision limiting payment to the Named Insured is unacceptable.</p> <p>In the event that MTC seeks coverage as an additional insured under any CONSULTANT insurance policy that contains a deductible or self-insured retention, CONSULTANT shall satisfy such deductible or self-insured retention to the extent of loss covered by such policy, for any lawsuit arising from or connected with any alleged act of CONSULTANT, subconsultant, subcontractor, or any of their employees, officers or directors, even if CONSULTANT or subconsultant is not a named defendant in the lawsuit.</p> <p>Claims Made Coverage. If any insurance specified above is written on a "Claims-Made" (rather than an "occurrence") basis, then in addition to the coverage requirements above, CONSULTANT shall:</p> <ol style="list-style-type: none"> (4) Ensure that the Retroactive Date is shown on the policy, and such date must be before the date of this Agreement or the beginning of any work under this Agreement; (5) Maintain and provide evidence of similar insurance for at least three (3) years following project completion, including the requirement of adding all additional insureds; and (6) If insurance is cancelled or non-renewed, and not replaced with another claims-made policy form with a Retroactive Date prior to the Agreement effective date, CONSULTANT shall purchase "extended reporting" coverage for a minimum of three (3) years after completion of the work. <p>Failure to Maintain Insurance. All insurance specified above shall remain in force until all work or services to be performed are satisfactorily completed, all of CONSULTANT's personnel, subcontractors, and equipment have been removed from MTC's property, and the work or services have been formally accepted. CONSULTANT must notify MTC if any of the above required coverages are non-renewed or cancelled. The failure to procure or maintain required insurance and/or an adequately funded self-insurance program will constitute a material breach of this Agreement.</p> <p>Certificates of Insurance: Prior to commencement of any work hereunder, CONSULTANT shall deliver to MTC Certificates of Insurance verifying the aforementioned coverages. Such certificates shall make reference to all provisions and endorsements referred to above and shall be signed on behalf of the insurer by an authorized representative thereof.</p> <p>Disclaimer: The foregoing requirements as to the types and limits of insurance coverage to be maintained by CONSULTANT are not intended to and shall not in any manner limit or qualify the liabilities and obligations otherwise assumed by CONSULTANT pursuant hereto, including, but not limited to, liability assumed pursuant to Article 9 of <i>Appendix C</i>.</p> <p>Subcontractor's Insurance: See Appendix C, Standard Consultant Agreement, at Attachment E,</p>	

regarding CONSULTANT’S liability for Subcontractors.

By signing below you acknowledge and agree to provide the required certificate of insurance providing verification of the minimum insurance requirements listed above within ten (10) days of MTC’s notice to firm that it wishes to contract with the firm.

Representative Name and Title	
Name of Authorizing Official	
Authorized Signature	
Date	

NOTE: If you were unable to check “Yes” for any of the required minimum insurance coverages listed above, a request for exception to the appropriate insurance requirement(s) must be brought to MTC’s attention no later than the date for requests for clarifications and exceptions to RFQ provisions. If such objections are not brought to MTC’s attention consistent with the protest provisions of this RFQ, compliance with the insurance requirements will be assumed.

**APPENDIX D-1, CERTIFICATION REGARDING DEBARMENT,
SUSPENSION, AND OTHER RESPONSIBILITY MATTERS**

(Third Party Contracts and Subcontracts over \$25,000)

Instructions for Certification:

1. By signing and submitting this bid or proposal, the prospective lower tier participant is providing the signed certification set out below.
2. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, MTC may pursue available remedies, including suspension and/or debarment.
3. The prospective lower tier participant shall provide immediate written notice to MTC if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
4. The terms “covered transaction,” “debarred,” “suspended,” “ineligible,” “lower tier covered transaction,” “participant,” “persons,” “lower tier covered transaction,” “principal,” “proposal,” and “voluntarily excluded,” as used in this clause, have the meanings set out in the Definitions and Coverage sections of rules implementing Executive Order 12549 [49 CFR Part 29]. You may contact MTC for assistance in obtaining a copy of those regulations.
5. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized in writing by MTC.
6. The prospective lower tier participant further agrees by submitting this proposal that it will include the clause titled “Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transaction,” without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.
7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the Non-procurement List issued by U.S. General Service Administration.

8. Nothing contained in the foregoing shall be construed to require establishment of system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which does a prudent person in the ordinary course of business dealings normally possess.
9. Except for transactions authorized under Paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to all remedies available to the Federal Government, MTC may pursue available remedies including suspension and/or debarment.

**CERTIFICATION REGARDING DEBARMENT, SUSPENSION,
INELIGIBILITY AND VOLUNTARY EXCLUSION
LOWER TIER COVERED TRANSACTION**

(1) The prospective lower tier participant certifies, by submission of this bid or proposal, that neither it nor its “principals” [as defined at 49 CFR Section 29.105(p)] is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.

(2) When the prospective lower tier participant is unable to certify to the statements in this certification, such prospective participant shall attach an explanation to this proposal.

Date

(Signature of authorized official)

(Type/print name and title)

APPENDIX D-2, CERTIFICATION OF RESTRICTIONS ON LOBBYING

I, _____ hereby certify on behalf of _____ that:
(name and title of grantee official) (name of grantee)

1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
3. The undersigned shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including subcontracts, sub-grants, and contracts under grants, loans, and cooperative agreements) and that all sub-recipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance is placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

Executed this _____ day of _____, 2015.

By _____
(signature of authorized official)

(title of authorized official)

**APPENDIX D-3, Exhibit 10-K Certification of Financial Management System and
Contract Costs****Consultant Certification:**

Consultant Firm Name: _____

Cost Proposal Date: _____

Fiscal Period Covered (mm/dd/yyyy to mm/dd/yyyy): _____

I, the undersigned, certify that all costs in this proposal (prime consultants and all subconsultants) are allowable in accordance with the cost principles of the Federal Acquisition Regulations (FAR) of title 48, Code of Federal Regulations (CFR), Part 31 and the indirect cost rate(s) have been prepared or audited in accordance with the following criteria and in the acceptable indirect cost rate schedule formats, and retained in the project files:

1. Generally Accepted Government Auditing Standards (GAGAS) issued by the United States Government Accountability Office, if applicable.
2. 23 Code of Federal Regulations (CFR), Chapter 1, Part 172 – Administration of Engineering and Design Related Service Contracts.
3. 48 CFR, Chapter 1, Part 31 – Contract Cost Principles
4. 48 CFR, Chapter 99, Cost Accounting Standards, Subpart 9900
5. All known material transactions or events that have occurred affecting the firm's ownership, organization, and indirect cost rates have been disclosed.

I, the undersigned, further certify that our financial management system meets the standards for financial reporting, accounting records, internal and budget control as set forth in the FAR of title 49, CFR, Part 18.20.

In addition, I the undersigned, certify that the approximate dollar amount of all A&E contracts awarded by Caltrans or a California local agency to this firm within the last three (3) calendar years for all State DOT and Local Agencies is \$_____ and the number of States in which the firm does business is _____.

*Consultant Certification Signature: _____

Consultant Certifying Name and Title (Print): _____

Consultant Contact Information – Email and Phone number: _____

Date of Consultant Certification (mm/dd/yyyy): _____

*An Individual executive or financial officer of the contractor's organization at a level no lower than a Vice President or Chief Financial Officer, or equivalent, who has authority to represent the financial information utilized to establish the indirect cost rate proposal submitted in conjunction with the contract.

Local Agency Certification – Cost Analysis (Do not complete, this section will be completed by MTC):

I, the undersigned, certify that I have performed a cost analysis in connection with this contract including, contract modifications exceeding \$150,000, for the fiscal period as specified above.

Local Agency Certification Signature: _____

Local Agency Certifying Name and Title (Print):

Local Agency Contact Information – Email and Phone number:

Date of Certification (mm/dd/yyyy): _____

Date of Cost Analysis (mm/dd/yyyy): _____

Distribution: 1) Original to Caltrans Audits and Investigations with Cost Analysis if \$1M or more
2) Local Agency Project Files

APPENDIX D-4, Exhibit 10-O1: Local Agency Consultant DBE Commitment
(Inclusive of all DBEs at time of proposal)

NOTE: Please refer to instructions on the reverse side of this form.

Consultant to Complete this Section			
1. Local Agency Name: <u>Metropolitan Transportation Commission (MTC)</u> 2. Project Location: <u>San Francisco Bay Area</u> 3. Project Description: <u>Program for Arterial System Synchronization (PASS)</u> 4. Consultant Name: _____ 5. Contract DBE Goal %: <u>6%</u>			
DBE Commitment Information			
6. Description of Services to be Provided	7. DBE Firm Contact Information	8. DBE Cert. Number	9. DBE %
Local Agency to Complete this Section		10. Total % Claimed	<div style="text-align: center; border-top: 1px solid black; border-bottom: 1px solid black;"> _____ % </div>
16. Local Agency Contract Number: <u>Program for Arterial System Synchronization (PASS)</u> 17. Federal-aid Project Number: <u>CML6084(160)</u> 18. Proposed Contract Execution Date: <u>July 2015</u> Local Agency certifies that all DBE certifications are valid and the information on this form is complete and accurate: <div style="text-align: center; border-top: 1px solid black; border-bottom: 1px solid black;"> Ryan DeCoud </div> 19. Local Agency Representative Name (Print) <div style="display: flex; justify-content: space-between;"> <div style="width: 45%;"> 20. Local Agency Representative Signature <div style="text-align: center; border-top: 1px solid black; border-bottom: 1px solid black;"> Contract Specialist </div> 22. Local Agency Representative Title </div> <div style="width: 45%;"> 21. Date <div style="text-align: center; border-top: 1px solid black; border-bottom: 1px solid black;"> 510-817-5784 </div> 23. (Area Code) Tel. No. </div> </div>		11. Preparer's Signature _____ 12. Preparer's Name (Print) _____ 13. Preparer's Title _____ 14. Date	15. (Area Code) Tel. No. _____

Distribution: (1) Original – Submit with Award Package
 (2) Copy – Local Agency files

INSTRUCTIONS - LOCAL AGENCY CONSULTANT DBE COMMITMENT**Consultant Section***The Consultant shall:*

24. **Local Agency Name** – Enter the name of the local or regional agency that is funding the contract.
25. **Project Location** - Enter the project location as it appears on the project advertisement.
26. **Project Description** - Enter the project description as it appears on the project advertisement (Bridge Rehab, Seismic Rehab, Overlay, Widening, etc)..
27. **Consultant Name** - Enter the consultant's firm name.
28. **Contract DBE Goal %** - Enter the contract DBE goal percentage, as it was reported on the Exhibit 10-I form. See LAPM Chapter 10.
29. **Description of Services to be Provided** - Enter item of work description of services to be provided. Indicate all work to be performed by DBEs including work performed by the prime consultant's own forces, if the prime is a DBE. If 100% of the item is not to be performed or furnished by the DBE, describe the exact portion to be performed or furnished by the DBE. See LAPM Chapter 9 to determine how to count the participation of DBE firms.
30. **DBE Firm Contact Information** - Enter the name and telephone number of all DBE subcontracted consultants. Also, enter the prime consultant's name and telephone number, if the prime is a DBE.
31. **DBE Cert. Number** - Enter the DBEs Certification Identification Number. All DBEs must be certified on the date bids are opened. (DBE subcontracted consultants should notify the prime consultant in writing with the date of the decertification if their status should change during the course of the contract.)
32. **DBE %** - Percent participation of work to be performed or service provided by a DBE. Include the prime consultant if the prime is a DBE. See LAPM Chapter 9 for how to count full/partial participation.
33. **Total % Claimed** – Enter the total participation claimed. If the Total % Claimed is less than item “6. Contract DBE Goal”, a Good Faith Effort (GFE) is required.
34. **Preparer's Signature** – The person completing this section of the form for the consultant's firm must sign their name.
35. **Preparer's Name (Print)** – Clearly enter the name of the person signing this section of the form for the consultant.
36. **Preparer's Title** - Enter the position/title of the person signing this section of the form for the consultant.
37. **Date** - Enter the date this section of the form is signed by the preparer.
38. **(Area Code) Tel. No.** - Enter the area code and telephone number of the person signing this section of the form for the consultant.

Local Agency Section:*The Local Agency representative shall:*

39. **Local Agency Contract Number** - Enter the Local Agency Contract Number.
40. **Federal-Aid Project Number** - Enter the Federal-Aid Project Number.
41. **Contract Execution Date** - Enter the date the contract was executed and Notice to Proceed issued. See LAPM Chapter 10, page 23.
42. **Local Agency Representative Name (Print)** - Clearly enter the name of the person completing this section.
43. **Local Agency Representative Signature** - The person completing this section of the form for the Local Agency must sign their name to certify that the information in this and the Consultant Section of this form is complete and accurate.
44. **Date** - Enter the date the Local Agency Representative signs the form.
45. **Local Agency Representative Title** - Enter the position/title of the person signing this section of the form.
46. **(Area Code) Tel. No.** - Enter the area code and telephone number of the Local Agency representative signing this section of the form.

APPENDIX D-5, Exhibit 10-02: Local Agency Consultant DBE Information

(Inclusive of all DBEs listed at bid proposal)

NOTE: Please refer to instructions on the reverse side of this form.

Consultant to Complete this Section			
<p>1. Local Agency Name: <u>Metropolitan Transportation Commission (MTC)</u></p> <p>2. Project Location: <u>San Francisco Bay Area</u></p> <p>3. Project Description: <u>Program for Arterial System Synchronization (PASS)</u></p> <p>4. Total Contract Award Amount: \$ <u></u></p> <p>5. Consultant Name: <u></u></p> <p>6. Contract DBE Goal %: <u>6%</u></p> <p>7. Total Dollar Amount for <u>all</u> Subcontractors: \$ <u></u></p> <p>8. Total Number of <u>all</u> Subcontractors: <u></u></p>			
Award DBE Information			
9. Description of Services to be Provided	10. DBE Firm Contact Information	11. DBE Cert. Number	12. DBE Dollar Amount
Local Agency to Complete this Section		13. Total Dollars Claimed	\$ <u></u>
		14. Total % Claimed	<u></u> %
		15. Preparer's Signature 16. Preparer's Name (Print) 17. Preparer's Title	
<p>20. Local Agency Contract Number: <u> </u> Program for Arterial System Synchronization (PASS)</p> <p>21. Federal-aid Project Number: <u>CML6084 (160)</u></p> <p>22. Contract Execution Date: <u>July 2015</u></p> <p>Local Agency certifies that all DBE certifications are valid and the information on this form is complete and accurate: <u>Ryan DeCoud</u></p> <p>23. Local Agency Representative Name (Print) <u></u></p> <p>24. Local Agency Representative Signature <u></u> 25. Date <u></u></p> <p><u>Contract Specialist</u> <u>510-817-5784</u></p> <p>26. Local Agency Representative Title <u></u> 27. (Area Code) Tel. No. <u></u></p>			
Caltrans to Complete this Section			
<p>Caltrans District Local Assistance Engineer (DLAE) certifies that this form has been reviewed for completeness:</p> <p>28. DLAE Name (Print) <u></u> 29. DLAE Signature <u></u> 30. Date <u></u></p>			

Distribution: (1) Copy – Email a copy to the Caltrans District Local Assistance Engineer (DLAE) within 30 days of contract award. Failure to send a copy to the DLAE within 30 days of contract award may result in delay of payment.
(2) Copy – Include in award package sent to Caltrans DLAE (3) Original – Local agency files

INSTRUCTIONS - LOCAL AGENCY CONSULTANT DBE INFORMATION**Consultant Section***Consultant shall:*

31. **Local Agency Name** – Enter the name of the local or regional agency that is funding the contract.
32. **Project Location** - Enter the project location as it appears on the project advertisement.
33. **Project Description** - Enter the project description as it appears on the project advertisement (Bridge Rehab, Seismic Rehab, Overlay, Widening, etc).
34. **Total Contract Award Amount** - Enter the total contract award dollar amount for the prime consultant.
35. **Consultant Name** - Enter the consultant's firm name.
36. **Contract DBE Goal %** - Enter the contract DBE goal percentage, as it was reported on the Exhibit 10-I form. See LAPM Chapter 10.
37. **Total Dollar Amount for all Subcontractors** – Enter the total dollar amount for all subcontracted consultants. SUM = (DBE's + all Non-DBE's). Do **not** include the prime consultant information in this count.
38. **Total number of all subcontractors** – Enter the total number of all subcontracted consultants. SUM = (DBE's + all Non-DBE's). Do **not** include the prime consultant information in this count.
39. **Description of Services to be Provided** - Enter item of work description of services to be provided. Indicate all work to be performed by DBEs including work performed by the prime consultant's own forces, if the prime is a DBE. If 100% of the item is not to be performed or furnished by the DBE, describe the exact portion to be performed or furnished by the DBE. See LAPM Chapter 9 to determine how to count the participation of DBE firms.
40. **DBE Firm Contact Information** - Enter the name and telephone number of all DBE subcontracted consultants. Also, enter the prime consultant's name and telephone number, if the prime is a DBE.
41. **DBE Cert. Number** - Enter the DBE's Certification Identification Number. All DBEs must be certified on the date bids are opened. (DBE subcontracted consultants should notify the prime consultant in writing with the date of the decertification if their status should change during the course of the contract.)
42. **DBE Dollar Amount** - Enter the subcontracted dollar amount of the work to be performed or service to be provided. Include the prime consultant if the prime is a DBE, and include DBEs that are not identified as subcontractors on the Exhibit 10-O1 form. See LAPM Chapter 9 for how to count full/partial participation.
43. **Total Dollars Claimed** – Enter the total dollar amounts for columns 12 and 13.
44. **Total % Claimed** – Enter the total participation claimed for columns 12 and 13. SUM = (item "14. Total Participation Dollars Claimed" divided by item "4. Total Contract Award Amount"). If the Total % Claimed is less than item "6. Contract DBE Goal", a Good Faith Effort (GFE) is required.
45. **Preparer's Signature** – The person completing this section of the form for the consultant's firm must sign their name.
46. **Preparer's Name (Print)** – Clearly enter the name of the person signing this section of the form for the consultant.
47. **Preparer's Title** - Enter the position/title of the person signing this section of the form for the consultant.
48. **Date** - Enter the date this section of the form is signed by the preparer.
49. **(Area Code) Tel. No.** - Enter the area code and telephone number of the person signing this section of the form for the consultant.

Local Agency Section:*The Local Agency representative shall:*

50. **Local Agency Contract Number** - Enter the Local Agency Contract Number.
51. **Federal-Aid Project Number** - Enter the Federal-Aid Project Number.
52. **Contract Execution Date** - Enter the date the contract was executed and Notice to Proceed issued. See LAPM Chapter 10, page 23.
53. **Local Agency Representative Name (Print)** - Clearly enter the name of the person completing this section.
54. **Local Agency Representative Signature** - The person completing this section of the form for the Local Agency must sign their name to certify that the information in this and the Consultant Section of this form is complete and accurate.
55. **Date** - Enter the date the Local Agency Representative signs the form.
56. **Local Agency Representative Title** - Enter the position/title of the person signing this section of the form.
57. **(Area Code) Tel. No.** - Enter the area code and telephone number of the Local Agency representative signing this section of the form.

Caltrans Section:*Caltrans District Local Assistance Engineer (DLAE) shall:*

58. **DLAE Name (Print)** – Clearly enter the name of the DLAE.
59. **DLAE Signature** – DLAE must sign this section of the form to certify that it has been reviewed for completeness.
60. **Date** - Enter the date that the DLAE signs this section the form.